FILED

011254 FEB 2 - 2002

OFFICE OF THE CLERK

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, & COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

136pp

QUESTIONS PRESENTED

1. Whether there is any constitutional recognizable preclusion at all under the Full Faith and Credit Statute 28 USCS §1738 to a State Small Claims default judgment when the State's Small Claims procedure did not satisfy the applicable requirements of the Due Process Clause of the Fourteenth Amendment. *Kremer v. Chemical Construction Corp.*, 456 U.S. 461, 482, 483 (1982)

2. Whether a federal court must consider pursuant to the full faith and credit statute 28 USCS §1738 the preclusion law of the state in which the prior judgment was rendered and whether the 9th Circuit's refusal to consider the principles of California's preclusion law by holding that a prior Small Claims judgment obtained by default, on a common law claim bars petitioner's state tort claims, and petitioner's subsequent Civil Rights claims, conflicts with the holding of this Court in *Migra vs Warren City School Dist. Bd. of Educ.*, U.S. 465 U.S. 75, 104 S.Ct. 892, 896 (1984), that "a federal court must give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which the judgment was rendered"? thus the procedure was not sufficient under the Due Process Clause of the Fourteenth Amendment, and did not satisfy the minimum procedural requirements

QUESTIONS PRESENTED

3. Whether the 9th Circuit's silent holding within the res judicata decision that the County Of Los Angeles Small Claims court was of competent jurisdiction to issue a Small Claims judgment when the court knew personal jurisdiction of the government defendant(s) was lacking, - conflicts with this court's explicit holding in *Bradley v Fisher* 80 U.S. (13 Wall.) 335 at 344, 20 L.Ed. 646 (1871) which states "It is not enough that it have jurisdiction over the subject-matter of the complainant generally; it must have jurisdiction over the particular case, and if it have not, the judgment is void" And *Bradley* at 352 "Where there is clearly no jurisdiction over the subject-matter any authority exercised is a usurped authority, and for the exercise of such authority, when the want of jurisdiction is known to the judge, no excuse is permissible"

4 Whether the California Small Claims default judgment is void if the California Small Claims court did not have personal jurisdiction over the Government defendants, and if the procedure did not comply with the due process clause of the fourteenth amendment. *Burnham v. Superior Court Of California, County Of Marin* 495 U.S. 604, 609; 110 S. Ct. 2105; 1990; 109 L. Ed. 2d 631 (1990) Quoting *Case of the Marshalsea*, 10 Coke Rep. 68b, 77a, 77 Eng. Rep. 1027, 1041 (K.B. 1612). At 1028 ""When a Court has jurisdiction of the cause, and proceeds inverso ordine or erroneously, no action lies against the party who sues, or the officer or minister of the Court, who executes the precept or process of the Court; when the Court has not jurisdiction of the cause, the whole proceeding is coram non judice [before someone who is not a judge], and an action will lie against them, without any regard to the precept or process" In *Pennoyer v. Neff*, 95 U.S. 714, 732 (1878), ... [The Supreme Court] announced that the judgment of a court lacking personal jurisdiction violated the Due Process Clause of the Fourteenth Amendment as well..."

QUESTIONS PRESENTED

5. Whether the Small Claims court is entitled to judicial immunity?

6. Whether a State Small Claims court's dismissal of a common law action for failure to comply with the California Government Code claim requirement may preclude a subsequent Federal Civil Rights action between the same parties with new parties and new Federal Civil Rights claims that could not possibly have been sued upon in the first claim, because of the possibility that the plaintiff in the Federal Civil Rights action could previously have brought a Federal Civil Rights claim against the original defendants of the Small Claims action in a regular State Court (but did not), and when the Small Claims court provides for more limited relief than that which is provided by the Federal Civil Rights laws?

7. Whether there is an exception to 28 U.SCS.§ 1738 for Federal Civil rights claims under 42 USC§ 1983, §1985 (2) & (3), and claims under the continuing violation theory for Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. (Title IX), if these claims were not, or could not have been raised in the prior Small Claims lawsuit, but were subsequently raised in this Federal lawsuit, and if this exception to U.S.C § 1738 would give the State Court's Small Claims default judgment, a greater preclusive effect than would the courts of the state rendering the judgment

QUESTIONS PRESENTED

8 Whether it is one of the "accepted principles of res judicata" that no party may be precluded by a prior litigation from raising a claim that such party could not have raised in that prior litigation, due to the lack of subject matter jurisdiction of the first tribunal over the subsequent claim, and, if so, whether the Ninth Circuit's aforesaid claim preclusion holding for petitioner's State Tort Claims as well as petitioner's Civil Rights claims also conflicts with *Federated Department Stores v. Moitie*, 452 U.S. 394, 398-99 (1981)?

9. Whether 9th Circuit affirming the vexatious litigant order is in error, if the vexatious litigant label doesn't fit the vice encountered - failing to state a claim, required under *De Long v Hennessey* 912 F. 2d 1144, 1146-48 (9th Circuit 1990), and if the vexatious litigant label cannot be justified by petitioner having filed related case 9th Circuit No. 00-55524 (USDCCDC CV-99-10121-(JSL)(Mc) as oral argument was heard on Oct 15th 2001, and the decision is currently pending.

10. Whether the 9th Circuit court erred in implementing the extreme departure standard of review from *Steckman v Hart Brewing Inc* 143 F.3d 1293; 1998 (9th Circ. 1998), in reviewing a pro per Civil Rights litigant's complaint and Motions To Dismiss de novo, when Steckman is not the applicable standard of review for a pro - per civil rights case.

QUESTIONS PRESENTED

11. Whether the 9th Circuit decision that petitioner failed to prosecute her remaining claims is an error if petitioner stated a Municipal Violation under 42 USC 1983 & 1985 (2) & (3) against County Of Los Angeles respondents and applicable Santa Monica College et al respondents see *Monell vs Department of Social Services Of City Of New York* 436 US 658 98 S Ct 2018, 56, L.Ed. 2d 611, 1978, 253, 258, 259. *Pembaur v Cincinnati* 475 US 469 106 S Ct 1292, 89, L Ed 2d 452 (1986) and if these claims were dismissed for failing to State a Claim under a FRCP 12 (b) (6) motion for noncompliance with USDC Central District Of California Local Rules 7.6 and 7.9 which does not rise to the level of a failure to prosecute under FRCP 41(b) See *Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 319-320, 101 L. Ed. 2d 285, 108 S. Ct. 2405 (1988) (Brennan, J. dissenting) *Carver v Bunch* , 946 F.2d 451; 453, 454, 455, (6th Circuit 1991) *Schilling v. Walworth County Park & Planning Commission*, 805 F.2d 272, 276-77 (7th Cir. 1986) *J.F. Edwards Const. Co. v. Anderson Safeway Guard Rail Corp.*, 542 F.2d 1318, 1323 n. 6 (7th Cir. 1976) ("Unless the violation of a local rule constitutes failure to prosecute, Rule 41 does not provide for dismissal for violation of a local rule.").

QUESTIONS PRESENTED

12. Whether the lower courts erred in dismissing the County Of Los Angeles Caucasian Doe Sheriffs Bailiffs of Judge Laurence D Rubin's Courtroom R for failing to serve them personally because when there is a primae facie case for false arrest without a valid warrant the burden of production shifts to the municipal entity to prove that there was probable cause for a warrantless arrest .and assault and battery - and if this holding to dismiss the County Of Los Angeles Caucasian Does because they were not served personally {See App B, page 13 (last paragraph), page 14] conflicts with *Bivens v Six Unknown Named Agents Of Federal Bureau Of Narcotics* 403 U.S. 388; 91 S. Ct. 1999; 29 L. Ed. 2d 619; 1971 U. S, and the 9th Circuit's more recent published holding in *Dubner v City of San Francisco* 266 F.3d 959; (9th Circuit Sept 2001) as well as with Maclin v.Paulson, 627 F.2d 83, 87 (7th Cir. 1980),Gordon v. Leeke, 574 F.2d 1147, 1152 (4th Cir. 1978)

13 Whether County Of Los Angeles respondents Terry January and Sherman Moten appeared in County Of Los Angeles Motion To Dismiss, if they were named in the proposed order [App F. Page 128-131] presented to the district court to sign.

13b And if so – whether defenses under a FRCP 12 (b) (6) motion can be waived under FRCP 12 (g) and (h) as the County Of Los Angeles Sheriffs could have raised the defenses of insufficiency of service of the summons and complaint and lack of personal jurisdiction at the time of their motion to dismiss but did not raise the defenses, and

QUESTIONS PRESENTED

13c Whether petitioner should be given due process to serve Sheriff Terry January and Sherman Moten personally under FRCP 4 (m). - If they did not appear in this case and if there are mitigating circumstances for failure to prosecute when they concealed a defect in the service of the summons & complaint which continued in their Motion To Dismiss proposed order. See (App F Page 129, 130, 131), & if the district court did not warn her that they must be served personally

14a Whether a school district may be held liable under Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. (Title IX), under the continuing violation theory see *Havens Reality Corp v Coleman* 455 U.S. 363 365(1982) for sexual harassment and discrimination, hostile environment and retaliations, when the claim is not based solely on one incident of a instructor sexual assault on a student in a class, but is challenging an unlawful practice of continuing violation sexual discrimination by the same school district instructor, and the unlawful practices of school district, to cover up the complaint when she reported it to them, and frame her which resulted in physical injury to petitioner in a County Of Los Angeles Courtroom on Oct 6th 1998.

QUESTIONS PRESENTED

14b. If a school district may be held liable under the continuing violation theory for damages under Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. - then whether School district police cover up of a sexual assault complaint and continuing a Small Claims proceeding and disseminating false testimony fabricated prior to the proceeding that resulted in police brutality, false arrest and unlawful detainment to the petitioner during the proceeding Oct 6th 1998 can be considered as an incident in the series of continuing violations constituting sexual discrimination, retaliation and hostile environment.

14c Whether the cumulative effect of all claims - stemming from, and including the sexual assault of 1994, may be included for purposes of the continuing violation - sexual harassment discrimination, retaliation and hostile educational environment claim under Title IX, see *Harris v Forklift Systems Inc*, 510 U.S. 17; 114 S. Ct. 367; 126 L. Ed. 2d 295; 1993 for damages purposes.

14d Whether a school district police officer investigator, should be regarded as a "School District Discrimination official" to fulfill the actual notice requirement of Title IX for a student to report a sexual assault complaint, and if not - whether constructive notice and respondeat superior should be permitted in a Title IX case whenever it is alleged that actual notice was given to a school district police officer? - see dissent *Gebser, v. Lago Vista Independent School District* 524 U.S. 274; 118 S. Ct. 1989; 141 L. Ed. 2d 277; (June 22nd 1998), which understood "an incentive for School Boards to insulate themselves from knowledge about sex discrimination in school programs" and if petitioner sustained physical injury on Oct 6th 1998 on account of a causal chain stemming from that incentive, and in order to eliminate the incentive & prevent victims of sex discrimination from a far greater risk of further injury if they do speak up, than if the Title IX right and remedy didn't exist at all.

PARTIES TO PROCEEDING

The Petitioner is Angela Bernhardt.

The Santa Monica College et al Respondents are - Santa Monica Community College District, Santa Monica College, Santa Monica College Police Department, Santa Monica College Board Of Trustees, , R. L. Jones, Ron Marable, O.D. Obiamiwe, Eileen Miller, Brenda Simmons, Piedad Robertson, Jo Ann Fielder, Robert Sammis, Herbert Roney, Dorothy Ehrhart - Morrison, Nancy Cattell-Luckenbach, Carole L. Curry, Patrick Nichelson, Annette Shamey.

The County Of Los Angeles et al respondents are - County Of Los Angeles, Los Angeles County Sheriff Department, Laurence D Rubin, 1-10 Caucasian Male Sheriff Deputy Does Of Judge Laurence D Rubin's Courtroom R & County Of Los Angeles Sheriff Department, Sherman Moten, Terry January, Leroy Baca, County Of Los Angeles Santa Monica Municipal Court. Does 1-100.

The State Of California.

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PETITION FOR A WRIT OF CERTIORARI

Petitioner respectfully prays that a Writ Of Certiorari issue to review the judgment of the United States Court Of Appeals for the Ninth Circuit filed June 25th 2001.

OPINION BELOW

The opinions of the United States Court of Appeals For The Ninth Circuit and of the District Court are unreported and are attached as Appendix A, and Appendix B respectively. The California Small Claim and default judgment to be reviewed in conjunction with the Ninth Circuit decision regarding res-judicata - is attached as Appendix C, and is an unpublished decision.

JURISDICTION

The judgment of the Court of Appeals for the Ninth Circuit was entered on June 25th, 2001. A timely petition for rehearing en banc was denied on Oct 5th 2001 and a copy appears in Appendix E. An extension of time to file the petition for writ of certiorari was granted by this court on 19th Dec 2001 to and including the 2nd February 2002 in Application No. 01A450.. This court's jurisdiction is invoked under 28 U.S.C. §1254(1).

RELATED CASE

There is a related case - 9th Circuit United States Court Of Appeals case # 00-55524 [USDC Central District Of California CV-99-10121-JSL (Mc) Angela Bernhardt, Appellant vs County Of Los Angeles, & L.W. Pellman, appellees. Oral argument was heard on Oct 15th 2001 in Pasadena, California and the decision is pending.

STATUTORY PROVISIONS

All Statutory Provisions below appear in full in Appendix G Page 56 to 83.

28 U.S.C § 1738 State and Territorial Statutes and Judicial Proceedings: Full Faith And Credit.

Title IX Of The Education Amendments Of 1972, 86 Stat. 373, As Amended, 20 U.S.C. §1681 Et Seq (a) Prohibition against Discrimination,

42 U.S.C §1983 Civil Action For Deprivation Of Rights,

42 U.S.C§1985(2) Obstructing Justice: Intimidating Party Witness, or Juror.,

42 U.S.C.§1985(3). Depriving Persons Of Rights Or Privileges.

42 U.S.C §2000d - §2000d7.

§ 718 Of The Education Amendments Of 1972

42 U.S.C §1988 (b) Attorneys Fees.

Fourth, Amendment

Seventh Amendment - In Suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved, and no fact tried by a jury, shall be otherwise re-examined in any Court of the United States, than according to the rules of the common law.

Fourteenth Amendment

Federal Rules Of Civil Procedure

FRCP 4 (d), FRCP 4 (m), FRCP 11, FRCP 12 ,
FRCP 12 (b) (2), FRCP 12 (b) (5), FRCP 12 (b) (6)
FRCP 12 (e), FRCP 12 (g) & (h), FRCP 15 (a),(c)(d))
FRCP 16

United States District Court Central District Of California

Local Rule 7.3.2, Local Rule 7.3.3, Local Rule 7.6,
Local Rule 7.9, Local Rule 27 (A)

California Code Of Civil Procedure

§116.210, §116.220 Jurisdiction Of The Small Claims Court
§116.710 (a) The Plaintiff in a Small Claims action shall have no right to appeal the judgment on the plaintiffs claim...
§415.30 (a) & (b)

California Government Code

§905.2, §905.4, §911.2, §911.3 (a) & (b), §911.4 (a), §911.6 (a)

Articles Of The United States Constitution

Article. IV. Section 1. Interstate Relations and the Official Acts of States

Article. IV. Section 2. Clause 1 Interstate Relations and The Rights of Citizens

Article. VI. Clause 2 General Provisions: The Supreme Law

STATEMENT OF THE CASE

Santa Monica College School District instructor R.L. Jones sexually assaulted petitioner in his class in June 1994 by surprising her from behind, and restricted her escape from the assault by pinning her to a color filter table. This behavior was unwelcome and upon hearing sexual innuendo from the same instructor the following day petitioner informed the instructor to not sexually assault her again.

Petitiner was subjected to continuing violations by the same instructor, that formed a pattern unified in purpose and effect to dominate, restrict, and humiliate the petitioner, (see First Amended Complaint in Volume II App F, Page 28,& Page 29) and which revealed no innocent explanation over time.

The continuing violations had an added component of defamation of character and so this case bears a similarity to quid pro quo sexual harassment, where an employee or supervisor uses his or her superior position to extract sexual favors from a subordinate employee, and if denied those favors, retaliates by taking action adversely affecting the subordinate's employment. See, e.g., *Lipsett v. Univ. of Puerto Rico*, 864 F.2d 881, 897 (1st Cir. 1988)

The cumulative effect of the sexual and non sexual violations caused the petitioner to drop photography classes and leave the photography department as the instructor was the Chief Supervisor of that department. [See Excerpt from the police report App F, 107 dated Nov 25th 1996]

After removing herself from the instructor's department petitioner upon finding instructor R.L. Jones was still defaming her character to the school district police in Nov 1996 reported all violations to the Santa Monica College school district police officer investigator Ron Marable in November 1996.

Ron Marable thoroughly interrogated petitioner about the sexual assault to ensure it was sexual assault she was reporting but refused to record petitioner's sexual assault complaint in writing by saying the sexual assault complaint was too old to report and passed off the continuing violation of defamation by the school district instructor against petitioner by stating that the school district teacher was "just joking!"

In March 1998 petitioner found that the police officer Ron Marable had covered up petitioner's sexual assault complaint against the instructor by saying that she had never made the sexual assault complaint to him, after retaliations had occured.

When petitioner reported the sexual assault and discrimination for the second time to the school district discrimination officials, they purposely distorted and omitted petitioner's facts in their sexual assault investigation report – and omitted violations that had continued in order to support that the school district teacher had not sexually assaulted or discriminated against petitioner. See Volume II App F, page 122, 123, 124, which shows how petitioner's facts were distorted by the School District Officials.

The continuing incidents of sexual discrimination although non sexual - were intimately tied to the instructor's original sexual assault in the controlling, restricting and humiliating purpose and effect.

So by Santa Monica Community College District excluding the continuing violations from their sexual discrimination investigation an invalid conclusion was reached, (reproduced in App D 46) from their invalid premise which states "A one (1) time occurrence of an action, where the individual was put on notice about the incident does not constitute harassment:"

When petitioner arranged a meeting with the Santa Monica College School District Superintendent and Head of Human Resources in August 1998, to inform

them in person regarding the school district police cover up of petitioner's sexual assault complaint instead of responding the School Distrct Officials threatened petitioner with the school district police instead, and refused to investigate the school district police officer for police misconduct. This incident occurred in late Aug 1998, after *Gebser, v. Lago Vista Independent School District* 524 U.S. 274; 118 S. Ct. 1989; 141 L. Ed. 2d 277; (June 22nd 1998) where Justice Stevens for the dissent stated "The reason why the common law imposes liability on the principal in such circumstances is the same as the reason why Congress included the prohibition against discrimination on the basis of sex in Title IX: to induce school boards to adopt and enforce practices that will minimize the danger that vulnerable students will be exposed to such odious behavior. The rule that the Court has crafted [in *Gebser*] creates the opposite incentive. As long as school boards can insulate themselves from knowledge about this sort of conduct, they can claim immunity from damages liability"

On Oct 6th 1998 School District Police Officer Marable arrived alone in County Of Los Angeles Small Claims proceeding to give false evidence which he had begun to manufacture prior to the proceeding in Nov 1996 by failing to take the sexual assault complaint down in writing, and by March 17th 1998 completely covering up that petitioner had made a sexual assault complaint to him regarding the school district instructor.

In similar cases pertaining to false evidence that the police officer witness had helped to manufacture the United States Courts Of Appeals for 6th and 9th Circuit have reversed, see *Paine v. City Of Lompoc*, 265 F.3d 975; (9th Circ Sept 13th 2001) (CV-96-09037-JSL. J. Spencer Letts, District Judge, Presiding) *Spurlock v. Satterfield*, 167 F.3d 995 (6th Cir. 1999) the courts have emphatically refused to extend absolute witness immunity to false evidence that the police officer witness had helped to manufacture. To the contrary, wrote the Spurlock court,

"the simple fact that acts may ultimately lead to witness testimony does not serve to cloak them with absolute testimonial immunity." **"Allowing witnesses to so launder their non-testimonial activities through their testimony would transform the immunity from "a shield to ensure that those individuals intimately involved in the judicial process are able to carry out their responsibilities without the constant threat of vexatious lawsuits" into a" sword allowing them to trample the statutory and constitutional rights of others." Id. at 1003-04. "**

Petitioner's complaint is also that certain Santa Monica College respondents, conspired with County Of Los Angeles respondents to conduct an abridged hearing in County Of Los Angeles Small Claims court to not give petitioner due process of law on the California government Code claim requirement under § 905.2 et seq, to deliberately continue the proceeding to achieve this end, so that petitioner's Small Claim of "Emotional Injury due to police cover up of a sexual assault complaint...defamation...negligence" would not be heard on the merits ever because a California Small Claims plaintiff is not able to appeal under (California CCP §116.710 (a)), - and so that the Small Claims proceeding could serve as a conduit to transform the California Government Code Claim defense into the more permanent res judicata defense –which up to now has been used to block petitioner's Civil Rights claims, and so that the proceeding could also be used as a venue to intimidate petitioner from bringing any a subsequent civil rights lawsuit through police brutality and false arrest without a valid warrant.

A conspiracy to conduct an unfair Small Claims hearing can be inferred from the facts of this case because the School District police officer would have not had any reason to continue the Small Claims proceeding knowing that the California Government Code Claim § 900 et seq had not been complied with, - unless he knew in advance

that the County Of Los Angeles court would not give the petitioner due process of law on the California government claim requirement, (petitioner was not aware that the government claim requirement was necessary as the requirement is not made clear for a school district.) and so the school district police officer would have had no reason to continue the Small Claims process by not raising the California Government Code Claim defense at the beginning of the proceeding, unless he and the other school district defendants who did not appear had something to gain in continuing the process in this way.

To conclude petitioner was sexually assaulted and exposed to continuing sexual discrimination by a school district instructor, and upon discovering a pattern of ongoing abuse, reported it to the school district police in Nov 1996, but the school district police refused to record her continuing violation sexual discrimination complaint and by March 1998 had completely covered it up. The School district Discrimination Officials ratified these acts and used the school district police cover up to deny that continuing violation sexual discrimination had occurred when the petitioner reported her complaint for the second time, The ratification of the ongoing sexual discrimination, and the school district police cover up of her complaint, placed petitioner at a heightened risk for greater violence to occur to her in County Of Los Angeles Court on October 6th 1998.

In addition the California law regarding the jurisdiction of the County Of Los Angeles Small Claims court, at California Code Of Civil Procedure § 116.220. (a) 4 (e) & (f) See (App. G page 79, 80) which is the procedure she received even though not applicable to her, in which the judicial officer's discretion in § 116.220 (a) (4) (f) was to dismiss the action without an opportunity to provide timely proof on the California Government Code Claim requirement. This California policy allows Small Claims to be dismissed against California government defendants without due process of law. Because a Small

Claims Plaintiff has no right of appeal under California Code Of Civil Procedure § 116.710 (a). In addition in Santa Monica County Of Los Angeles Court the policy is supplemented by assaulting and battering the Small Claims Plaintiff, and false arrest without a valid warrant.

PROCEDURAL POSTURE

On 3/15/99 petitioner in pro per filed a Federal Civil Rights complaint. Santa Monica College (SMC) filed a Motion To Quash & then a Motion To Dismiss & took it off calendar after 12th May 99. County Of Los Angeles did not file a Motion To Dismiss until Aug 25th 1999 a month before the district court dismissed the case under a FRCP 12 (b) (6) Motion with prejudice and without leave to amend. On 12th May 99 at the informal status conference the Court et al agreed that petitioner could amend the complaint, but gave no time frame, & did not apprise petitioner of what was deficient. The County Of Los Angeles attorney informed petitioner that all County named respondents had accepted service of the summons and complaint by U.S. mail. On 4th June 1999 the district court denied petitioner's request to request an attorney for her & by 6/29/99 had denied petitioner's motions for time to amend her complaint & supplement her complaint with a claim against the County Of Los Angeles Settlement policy –9th #00-55524 pending in 9th Circuit. On July 6th 1999 the First Amended Complaint was accepted,even though the time to file it 8 days earlier had been cut off without warning. [See Appendix B Transcript page 28] The minutes for the informal conference shows that petitioner in pro per was not given a time frame for amending her complaint. [App. B, 37] On 21st Sept 1999 the petitioner filed an ex parte application & asked for a continuance on the Motion To dismiss hearing, which two motions had arrived by 10th Sept 1999. The Continuance was denied by phone on 24th Sept 2001, and by 29th Sept the district court had granted two motions to dismiss. On Oct 4th 1999 two oppositions to County and SMC's two

motions to dismiss were filed in one blue back. On Oct 13th 1999 the Court added in his order - with prejudice and without leave to amend, [Appendix B page 22- 26] The Court did not refer to petitioner's opposition to County Of LA's Motion To Dismiss at [App F, page 144-169] in Motion To Dismiss order, but did mention opposition to SMC's Motion To Dismiss. On 22nd Oct 1999 petitioner filed an appeal which was dismissed on 25th Jan 2000 for lack of jurisdiction. On 29th Februàry 2000 an order was entered dismissing remaining defendants for lack of prosecution [Appendix B page 11-15], but the court's prior order to show cause re lack of prosecution did not warn defendants must be served personally. On May 1st 2000 the district court entered a vexatious litigant order against petitioner[Appendix B page 5-9] with out giving her the details or giving her due process before he entered the order.

REASON FOR GRANTING THE WRIT

This case raises a significant, recurring problems with respect to the preclusive effect of a state-court judgment vis-a-vis the protection of constitutional rights.

The question before this Court may be stated as follows: Is petitioner precluded from litigating her Civil Rights Claims in the federal court simply because of a California Small Claims default judgment[1] attached at [App. C, page 40 through 45] for the common law claim of "emotional injury due to police cover up of a sexual assault complaint by a College instructor, defamation, and negligence" where the California State's Small Claims procedure did not satisfy the applicable requirements of the Due Process Clause of the Fourteenth Amendment.

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[1]Note: The Small Claims judgment was a default judgment as the California Government Code Claim defense under § 905.2, et seq [App G, 80 through 82] was not met on October 6th 1998 but was timely met in Dec 1998 and Jan 1999, See [Volume II, Appendix F page 99 through 106].

ARGUMENT
1.

1. There is no constitutional recognizable preclusion at all under the Full Faith and Credit Statute 28 USCS §1738 to a State Small Claims default judgment when the State's Small Claims procedure did not satisfy the applicable requirements of the Due Process Clause of the Fourteenth Amendment.

The procedure from California Code Of Civil Procedure §116.220 (f) does not comply with the due process clause of the Fourteenth Amendment as it gives the California Small Claims court discretion to dismiss an action without fully or fairly litigating it, without due process of law - without opportunity to provide proof of the California Government Claim requirement under § 905.2 et seq. when it could be timely fulfilled, and prevents the Small Claims plaintiff from ever having her day in court where she could prevail, as there is no appeal for a Small Claims plaintiff, under California law.

In *Kremer v Chemical Construction Corp* 456 U.S. 461, 482, 483 (1982) it was held that procedures provided in New York for the determination of employment discrimination claims, complemented by administrative as well as judicial review, offered a full and fair opportunity to litigate the merits and thus were sufficient under the Due Process Clause of the Fourteenth Amendment.

But unlike ***Kremer v. Chemical Construction Corp.***, 456 U.S. 461, 482, 483 (1982) the prior State Small Claim was not a sexual discrimination claim under Title IX, Instead the Small Claim was "emotional injury due to police cover up of a sexual assault complaint, defamation and negligence" which wasn't fully or fairly heard in the Small Claims court as the California

Government Code Claim was raised by the defendant which curtailed the proceeding, and there was no judicial review permitted.

Thus the Los Angeles County Small Claims procedure was insufficient under the Due Process Clause of the Fourteenth Amendment, and the *Kremer* court stated, "A State may not grant preclusive effect in its own courts to a constitutionally infirm judgment, and other state and federal courts are not required to accord full faith and credit to such a judgment. Section 1738 does not suggest otherwise; other state and federal courts would still be providing a state court judgment with the "same" preclusive effect as the courts of the State from which the judgment emerged. **In such a case, there could be no constitutionally recognizable preclusion at all**" *Kremer v. Chemical Construction Corp.*, 456 U.S. 461, 483 (1982)

ARGUMENT

2.

1. The California Small Claims Default Judgment Was Not Given The Same Full Faith And Credit under 28 U.S.C. § 1738 As The Judgment Would Receive In California, The State From Which The Judgment Emerged.

The Lower Courts have not given the same "Full Faith And Credit" to a Small Claims Court judgment as would the courts from the state in which the judgment is rendered which in this case is California. The district court never explicitly ruled on the issue of res judicata or collateral estoppel and the 9th Circuit gave no citation for for their decision that the State Tort Claims against Santa Monica College et al were res judicata and so did not look to California law. The Ninth Circuit ignored the teachings of this Court in *Allen v. McCurry*, 449 U.S. 90 (1980), *Kremer v. Chemical Construction* Corp., 456 U.S. 461 (1982), and *Haring v. Prosise*, 462 U.S. 306, 76

L.Ed. 2d 595, 103 S.Ct. 2368 (1983), concerning the preclusion law to be applied by the federal courts to previous state court judgments under 28 U.S.C. § 1738, the Full Faith and Credit Statute. It also ignored fundamental principles of comity and federalism, partially embodied in that statute, by in effect punishing the petitioner for having brought their state common law claims in a state Small Claims court forum. *Younger v. Harris*, 401 U.S. 37, 44 (1971).by granting the previous California Small Claim default judgment against this petitioner greater preclusive effect in federal court than that judgment would have in the courts of California

See the Small Claim and judgment at (App. C page 40-45) The Ninth Circuit refused to apply the rule of Allen, Kremer and Haring.. This Court's decision in *Migra vs Warren City School Dist. Bd. of Educ.*, U.S. 465 U.S. 75, 104 S.Ct. 892, 896 (1984) which applied the rule of those decisions, a few years ago removed any possible doubt that the Ninth Circuit's recent decision in this case was in error. The court below clearly misconstrued the statutory mandate of section 1738, which is to grant state court judgments the "same" preclusive effect in "every court within the United States . as they have by law or usage in the Courts of [the] state . from which they are taken." 28 U.S.C. § 1738 (1976). In *Kremer*, the Court lruled that: "It has long been established that [28 U.S.C.] §1738 does not allow federal courts to employ their own rules of res judicata in determining the effect of state judgments. Rather, it goes beyond the common law and commands a federal court to accept the rules chosen by the State from which the judgment is taken." (Kremer v. Chemical Construction Corp., 456 U.S. 461, 481-82) (emphasis supplied)

Allen and Kremer involved major federal civil rights statutes that had previously been held to require special limitations upon the preclusive effect of state court judgments. The fact that no such limitations were allowed by this Court, even in those cases, demonstrates

that there could be few, if any, federal statutes that would require the expansion of the preclusive effect of such judgments. If even the civil rights laws could not effect the "partial repeal" of section 1738 so as to allow a federal claim (Kremer v. Chemical Construction Corp., supra, 456 U.S. at 468), then what law, much less, novel judicial policy, could accomplish a "partial repeal" so as to preclude a federal claim, especially one which could only be brought in federal court? Thus, in *Folsom Inv. Co., Inc. v. Moore,* 631 F.2d 1032, 1035 (5th Cir. 1982), the Fifth Circuit immediately drew this deduction from the language just quoted: "Kremer apparently dooms the assumption of many courts and commentators that federal courts may be free to grant greater preclusive effect to state court judgments than would the courts of the judgment-rendering state." Accordingly, With The exception of the present case & *Marrese v. American Academy Of Ortho. Surgeons,* 470 U.S. 373 (1985) had problems also, virtually every federal circuit court decision since Kremer that has construed section 1738 has recognized, at least implicitly, that the federal courts are not free to use a previous state court judgment to preclude an issue or a claim that would not have been precluded by the law of the judgment-rendering state.

In this case, the record is clear and unequivocal that the petitioner did not submit her §1983 & §1985 claims, or Title IX constitutional claims, to the state Small Claims court for determination, see App C, page 41 under Plaintiff's Claim, the Small Claim "emotional injury due to police cover up of a sexual assault complaint by an instructor, defamation and negligence did not contain any Federal Civil Rights claims.. The crux of the *Allen v. McCurry* decision is that McCurry had properly and fully litigated his federal claim in the state court. But in petitioner's case she did not even have a full or fair opportunity to litigate in the Small claims court see App F , Page 46, 47, 52, 53, 56, 57, 58, 83, 84, 85, 86, The First

Amended Complaint, and she was traumatized in the process.

According to the traditional doctrines of preclusion, res judicata does not apply when the subsequent suit is on a different cause of action. It is beyond dispute that the causes of actions asserted in the federal court is clearly different from the cause of action for 'Emotional injury due to police cover up of a sexual assault complaint, defamation and negligence",.

This Court in McCurry accorded a binding effect to the state court judgment because that court actually and properly adjudicated the federal constitutional issue which McCurry sought to relitigate in connection with a civil rights action subsequently filed by him in the federal court. In fact, McCurry requested the determination of the federal issue by the state court. The significant term used by the courts is "relitigate." Before the concept of " collateral estoppel" may be applicable, the point of law or of fact drawn in question in a subsequent suit must have been actually and fully litigated in the prior action.. The petitioner did not submit Federal Civil Rights claims to the state Small Claims court in the prior action between the parties; and, therefore, is not confronted in the instant case with a situation in which the state court decided a federal question adversely to her. Obviously, no preclusive effect arises where federal rights have not been presented to the state court for adjudication. The Ninth Circuit has committed prejudicial error in affirming the decision of the district court which barred the petitioner from litigating her Civil Rights claims in the federal court.

RES JUDICATA IS NOT APPLICABLE BECAUSE THERE ARE DIFFERENT PARTIES

The issue of sexual assault by the instructor was never presented to the Small Claims court See App C page 45 for a list of the parties where the school district instructor was not listed in the Small Claim. Nor were any of the County Of Los Angeles et al parties or the

causes of action that pertain to them listed in the Small Claim.

CALIFORNIA PRECLUSION LAW

In *Sanderson v. Niemann* 17 Cal. 2d 563, 573-575 [110 P.2d 1025] (1941) California law established that Small claims judgments are not entitled to collateral estoppel effect, given informality of proceedings, including limited right to judicial review.

California preclusion law encompasses primary rights see Los Angeles Branch NAACP v. Los Angeles Unified School District et al., 750 F.2d 731; (9th Circuit 1984) California follows the "primary rights" theory, under which the right sought to be enforced determines the cause of action. See 3 Witkin, California Procedure, Pleadings @ 22 (1971). The invasion of more than one primary right gives rise to as many causes of action as rights violated, even though all may arise from a single set of facts.See, e.g., Sawyer v. First City Financial Corp., 124 Cal. App. 3d 390, 399, 177 Cal. Rptr. 398, 403 (1981)...Agarwal v. Johnson, 25 Cal. 3d 932, 954, 160 Cal. Rptr. 141, 155, 603 P.2d 58, 72 (1979).

In addition Restatement Of Judgments Second 27e a default judgment obtained in Small Claims Court because a precondition to suit was not met, cannot be used as a collateral estoppel because the element of litigated issues is absent - "In the case of a judgment entered by by confession, consent or default, none of the issues is actually litigated.

ARGUMENT
3

Res Judicata Does Not Apply Because The Small Claims Court was not of Competent Jurisdiction To hear either the Small Claim on Oct 6th 1998, or the subsequent Federal Civil rights Claims.

Lack Of Jurisdiction Over Small Claim

In this case California Civil Code Of Procedure § 116.220 4 states at (e) "the Small Claims Court shall have jurisdiction over a (government) defendant only if the plaintiff has ... compliance with Sections 905.2 and 905.4 of the Government Code", and the requirement had not been complied with at the time of the proceeding on Oct 6th 1998.

In this case the Government defendant raised the California Government Code Claim requirement under § 905.2 et seq as a defense during the proceeding which curtailed and ended the proceeding.

In this case the Small Claims court made no inquiry whether the California Government Code Claim requirement under § 905.2 et seq could be timely met prior to entry of the Small Claims judgment, when it could have been met, and was subsequently met [App F page 99 –106), and where there is no appeal for the Small Claims plaintiff under California CCP § 116.710 (a)

Bradley v Fisher 80 U.S. (13 Wall.) 335 at 344, 20 L.Ed. 646 (1871) states "It is not enough that it have jurisdiction over the subject-matter of the complainant generally; it must have jurisdiction over the particular case, and if it have not, the judgment is void"

Lack Of Jurisdiction Over The Subsequent Federal Civil Rights Claims Not Raised In The Small Claim

Prior jurisdictional competency is a requirement for the application of res judicata. This is a rule of near universal application. See Restatement (Second) of Judgments § 26(1)(c). Petitioner is not attempting to relitigate a federal claim which has been fully and directly litigated in another court of competent jurisdiction. A court may not consider and adjudicate a claim unless that claim has been submitted to it by means of proper pleadings according to established judicial rules of procedure and practice. The character of a cause of action is determined by the allegations contained in the complaint. And petitioner's Small Claim at [App C Page 41] is "emotional injury due to police cover up of a sexual assault complaint against a college instructor, defamation and negligence Also it is not unusual for one particular set of operative facts to give rise to different actions. There can be no contention of relitigation" or "adjudication" where a claim has not been asserted, and properly litigated in a court of competent jurisdiction.

Petitioner's Federal complaint of civil rights violations are broader than the common-law tort of defamation and emotional injury due to school district police cover up of a sexual assault complaint by a school district instructor. The appropriate and effective response to the rationale of the lower courts in this case is to be found in the concurring opinion of Justice Harlan in *Monroe v. Pape*, 365 U.S. 167, wherein he declared: ... a deprivation of a constitutional right is significantly different from and more serious than a violation of a state right, and, therefore, deserves a different remedy even though the same act may constitute a state tort and the deprivation of a constitutional right.

Justice Harlan, in *Pape*, stated further: It would indeed be the purest coincidence if the state remedies for violations of common law rights by private citizens were fully appropriate to redress those injuries which only a

state official can cause and against which the Constitution provides protection.

Also it appears that the California Small Claims court does not have jurisdiction over Civil Rights claims – See California Code Of Civil Procedure §116.220 (a) (1) through (4) (f) [See App G page 78 through 80] which Federal Civil Rights Claims were not raised in the Small Claim [See Appendix C].

Eichman v Fotomat Corp 759 F.2d 1434; 1438 (9th Circ 1985) states "Under California preclusion law, in order for res judicata to apply to claims not raised in previous proceedings, the court rendering the prior judgment must have had jurisdiction to hear such claims. See *Teitelbaum Furs, Inc. v. Dominion Ins. Co.*, 58 Cal. 2d 601, 604, 375 P.2d 439, 440, 25 Cal. Rptr. 559, 560 (1962), cert. denied, 372 U.S. 966, 10 L. Ed. 2d 130, 83 S. Ct. 1091 (1963);

County Of Ventura, V. Joyce Tillett, 132 Cal. App. 3d 767; (1982) A judgment is void on its face if the court which rendered the judgment lacked personal or subject matter jurisdiction or exceeded its jurisdiction in granting relief which the court had no power to grant. (*Becker v. S.P.V. Construction Co.* (1980) 27 Cal.3d 489, 493 [165 Cal.Rptr. 825, 612 P.2d 915]

ARGUMENT
4

The Small Claims judgment is void because the Small claims court did not have any personal jurisdiction over the government defendants and there was not a full or fair opportunity to litigate in the Small claim

Case of the Marshalsea, 10 Coke Rep. 68b, 77a, 77 Eng. Rep. 1027, 1041 (K.B. 1612). At 1028

"When a Court has jurisdiction of the cause, and proceeds inverso ordine or erroneously, no action lies against the party who sues, or the officer or minister of the Court, who executes the precept or process of the Court; but when the Court has not jurisdiction of the cause, the whole proceeding is [before a person who is not a judge] coram non judice, and an action will lie against them, without any regard to the precept or process"

Pennoyer v. Neff, 95 U.S. 714, 732 (1878), ... [The Supreme Court] announced that the judgment of a court lacking personal jurisdiction violated the Due Process Clause of the Fourteenth Amendment as well..."

ARGUMENT
5

The Small claims court is not entitled to Judicial Immunity.

Clear Absence Of Jurisdiction

In this case the Small Claims court entered a judgment for the Government defendants knowing that the California Government Claim requirement under §905.2 was not met, and made no inquiry to the plaintiff whether the requirement could be timely met, when it could be met, and was met after see [App F, page 99-106] and where there is no appeal for a Small Claims plaintiff. underCalifornia CCP § 116.710 (a) See [App G page 80].

Non Judicial Acts

The Small Claims Court also did not attempt to stop the County Of Los Angeles Caucasian Sheriffs Bailiffs from assaulting and battering the Small Claims plaintiff and falsely arrest her, in a battery ritual in the courtroom in which the defendant was permitted to join in [App F page 84-86].

The Small Court has since at Appeal defamed petitioner's character by stating that she lunged at him, See County Of Los Angeles briefs at 9th Circuit [App. F. page 175-176] and also has joined to suppress and switch the identities of the Sheriff bailiffs involved in assault and battery of petitioner in County Of Los Angeles Santa Monica Courtroom R.

In *Stump v. Sparkman*, 435 U.S. 349, 98 S. Ct. 1099, 55 L. Ed. 2d 331 (1978), it was established that state judges are immune from § 1983 liability for "judicial" acts not taken "in the "clear absence of all jurisdiction. but this court did not explicitly consider whether Stump acted in the clear absence of personal jurisdiction or whether such action would be protected by judicial immunity. Two factors were considered in determining whether an act is "judicial": "the nature of the act itself, i. e., whether it is a function normally performed by a judge, and ... the expectations of the parties, i. e., whether they dealt with the judge in his judicial capacity." 435 U.S. at 362, 98 S. Ct. at 1107. Also the underlying purpose of judicial immunity should be considered. Gregory v. Thompson, 500 F.2d 59, 63 (9th Cir. 1974). n8

This case is distinct from *Stump v Sparkman* Stump v. Sparkman, 435 U.S. at 356, 98 S. Ct. at 1104. in that petitioner raised her issue with judicial acts in her First Amended Complaint and in the Opposition To County Of Los Angeles Motion To Dismiss [App F page 144-169] which is in the record even though the district court declined mentioning it. Also the issue of judicial immunity was only raised in the County Of Los Angeles

Motion To Dismiss filed in the district court on 25th Aug 1999, and so the judicial immunity issue was only raised AFTER the district court had denied any further amendment to petitioner's complaint on June 29th 1999. and so the district court denied her amending her complaints before the issue of judicial immunity was presented to her.

In this case the Small Claims court acted in the clear absence of jurisdiction over the defendants and knew that personal jurisdiction over the defendants was lacking when the Small Claims court entered the Small Claims judgment. See California Code Of Civil Procedure 116.220 (e) [App. G. Page 79] which states "the Small Claims Court shall have jurisdiction over the defendant only if ...compliance with the Sections 905.2, and 905. 4 of the Government Code. And the government Code Requirement had not been complied with see App C 41, point number 2. So the judgment should be declared declared nul and void.

ARGUMENT

7

There is no exception to 28 U.SCS.§ 1738 for Federal Civil rights claims under 42 USC§ 1983, §1985 (2) & (3), and claims under the continuing violation theory for Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. (Title IX), when these claims were not, or could not have been raised in the prior Small Claims lawsuit, but were subsequently raised in this Federal lawsuit.

It is well established that, in a suit under 42 U.S.C § 1983, and Title VII, 28 U.S.C. § 1738 requires federal courts give the same "full faith and credit" to the records and judicial proceedings of any state court that they would receive in the state from which they arise. See *Migra v. Warren City School Dist. Bd. of Educ.*, 465 U.S.

75, 79 L. Ed. 2d 56, 104 S. Ct. 892 (1984); which must follow also for suits under 42 USC 1985 (2) & (3) and Title IX Of The Education Amendments Of 1972, 86 Stat. 373, As Amended, 20 U.S.C. § 1681 Et Seq (a) Prohibition against Discrimination,

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ARGUMENT

8

It is one of the "accepted principles of res judicata" that no party may be precluded by a prior litigation from raising a claim that such party could not have raised in that prior litigation, due to the lack of subject matter jurisdiction of the first tribunal over the subsequent claim, and, so, Ninth Circuit's aforesaid claim preclusion holding for petitioner's State Tort Claims as well as petitioner's Civil Rights claims also conflicts with *Federated Department Stores v. Moitie*, 452 U.S. 394, 398-99 (1981)?

There are claims that did not exist when the Small claim was filed on Sept 2nd 1998 and which subsequent claims did not occur or accrue until the day the judgment was entered Oct 6th 1998 and after, and so could not possibly have been sued upon in the Small Claim heard on Oct 6th 1998, and also because the court would not have been of competent jurisdiction to hear those claims as he was a party to the new causes of action that occurred or accrued on Oct 6th and after.

The doctrine of res judicata can operate as a bar only in a situation where the subsequent suit between the parties or their privies is on the same cause of action. In this case the subsequent Federal Civil Rights Lawsuit suit are not on the same causes of action although police cover up of petitioner's sexual assault complaint is one of the many issues.

Unless the subsequent suit is predicated on the same claim or cause of action as that of the earlier suit,

res judicata can have no application, whatsoever. However, where the subsequent cause of action or claim is not the same, but there is an identity of parties, a point of law or a fact which was fully and fairly litigated, may not be drawn in question in the subsequent suit. In this case petitioner has asserted that the state Small Claims court denied her a "full and fair opportunity" to litigate her claims

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ARGUMENT
9

The vexatious litigant label doesn't fit the vice encountered failing to state a claim, See criteria that the 9th Circuit used under *De Long v Hennessey* 912 F. 2d 1144, 1146-48 (9th Circuit 1990), nor did the district court give petitioner due process of law under F.R.C.P. 11 ((b) because the district court did not describe the specific conduct that appears to violate subdivision (b) before the court entered the order, without a hearing, and the vexatious litigant stigma cannot apply to related Case 9th Circuit United States Court Of Appeals case # 00-55524 [USDC Central District Of California CV-99-10121-JSL (Mc) as oral argument was heard on Oct 15th 2001 and a decision is pending

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ARGUMENT
10

The 9th Circuit court used an inapplicable standard of review from *Steckman v Hart Brewing Inc* 143 F.3d 1293; 1998 (9th Circ1998), to review a pro per Civil Rights litigant's complaint and Motions To Dismiss de novo.

In order for petitioner's complaint to be dismissed for failure to state a claim, a court must conclude "beyond doubt that the plaintiff can prove no set of facts in support of his claim which would entitle ...[her] to relief."

Haines v. Kerner, 404 U.S. 519, 521, 30 L. Ed. 2d 652, 92 S. Ct. 594 (1972) (per curiam) (quoting Conley v. Gibson, 355 U.S. 41, 45-46, 2 L. Ed. 2d 80, 78 S. Ct. 99 (1957)). The lower court's should have accepted petitioner's allegations as true on a Motion To Dismiss, *Hishon v. King & Spalding*, 467 U.S. 69 at 73 (1984)

The 9th Circuit's general rule is also that a pro per litigant in civil rights cases are allowed to amend their pleadings See *Chang v. Chen, 80 F.3d 1293, 1296 (9th Cir. 1996).* As long as amendment would not be futile and this court has instructed the federal courts to liberally construe the `inartful pleading' of pro se litigants," *Eldridge v. Block*, 832 F.2d 1132, 1137 (9th Cir. 1987) (citing *Boag v. MacDougall*, 454 U.S. 364, 365 (1982)), which is "particularly important in civil rights cases." *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 And if the district court did not give a pro se civil rights litigant a statement of the complaint's deficiencies before dismissing the complaint under a FRCP 12 (b((6) Motion For Failing To State A Claim. *Eldridge v Block* (9th Circ. 1987) 832 F.2d. 1132, 1135-1136.

ARGUMENT 11

The 9th Circuit decision that petitioner failed to prosecute her remaining claims is an error.

Petitioner has stated a Municipal Violation under 42 USC 1983 & 1985 (2) & (3) against respondents see *Monell vs Department of Social Services Of City Of New York* 436 US 658 98 S Ct 2018, 56, L.Ed. 2d 611, 1978, 253, 258, 259. *Pembaur v Cincinnati* 475 US 469 106 S Ct 1292, 89, L Ed 2d 452 (1986) and these claims were dismissed for failing to State a Claim under a FRCP 12 (b) (6) motion for noncompliance with USDC Central District Of California Local Rules 7.6 and 7.9, although not explicitly stated by the district court

These claims were not dismissed under a FRCP 41 (b) motion. This failure to comply with local rules does not rise to the level of a failure to prosecute under FRCP 41(b) See *Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 319-320, 101 L. Ed. 2d 285, 108 S. Ct. 2405 (1988) (Brennan, J. dissenting) *Carver v Bunch* , 946 F.2d 451; 453, 454, 455, (6th Circuit 1991) *Schilling v. Walworth County Park & Planning Commission*, 805 F.2d 272, 276-77 (7th Cir. 1986) *J.F. Edwards Const. Co. v. Anderson Safeway Guard Rail Corp.*, 542 F.2d 1318, 1323 n. 6 (7th Cir. 1976) ("Unless the violation of a local rule constitutes failure to prosecute, Rule 41 does not provide for dismissal for violation of a local rule.").

. Interpreting Local Rule 7.9 as authorizing a district court to dismiss petitioner complaint for failure to state a claim under FRCP 12 (b) (6) with prejudice and without leave to amend would seemingly make that rule inconsistent with the Federal Rules of Civil Procedure. The 6th Circuit declined to subscribe to such an interpretation and instead found that the district court erred in concluding that its Local Rules authorized it to dismiss *Carver's* complaint under the same circumstances of this case. See also *Schilling v. Walworth County Park & Planning Commission*, 805 F.2d 272, 276-77 (7th Cir. 1986) (district court should warn pro se litigants of possible consequences of neglect if it intends to sanction with dismissal).

An interpretation of the USDC Local Rule 7.9 (App G, page 7.9) which permitted a district court to dismiss a plaintiff's action merely for failing to respond to another party's motion would, at a minimum, expand the district court's authority over that which it possesses under Rule 41(b) of the Federal Rules of Civil Procedure. See *J.F. Edwards Const. Co. v. Anderson Safeway Guard Rail Corp.*, 542 F.2d 1318, 1323 n. 6 (7th Cir. 1976) ("Unless the violation of a local rule constitutes failure to prosecute, Rule 41 does not provide for dismissal for violation of a local rule."). T

The sixth circuit was unable to conclude that Carver's failure to respond to the defendants' motion to dismiss, standing alone, amounted to a failure to prosecute, when the complaint was dismissed with prejudice and without leave to amend six months after it was filed, Also the Supreme court has repeatedly held, "'The Federal Rules reject the approach that pleading is a game of skill in which one misstep by [a pro per civil rights litigant] counsel may be decisive to the outcome and accept the principle that the purpose of pleading is to facilitate a proper decision on the merits.'" *Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 319-320, 101 L. Ed. 2d 285, 108 S. Ct. 2405 (1988) (Brennan, J. dissenting) (quoting *Foman v. Davis, 371* U.S. 178, 181-182, 9 L. Ed. 2d 222, 83 S. Ct. 227 (1962)).

The district court did not warn the pro per civil rights litigant in September 1999 when two motions to dismiss appeared that the only course of action was to oppose them, and the district court on 24th Sept 1999, 10 days before the Two Motions To Dismiss hearing date of Oct 4th 1999 refused to grant a continuance on the two motions to dismiss. After that the district court did not warn the pro per civil rights litigant that the "remaining defendants" which included the 1-10 Caucasian Sheriff Deputy Bailiff does of Judge Laurence D Rubin's courtroom must be served personally or that they would be dismissed for failing to prosecute. And the *Henderson v. Duncan*, 779 F.2d 1421 (9th Cir. 1986), failure to prosecute factors petitioner believes weighs in her favor, "(1) the public's interest in expeditious resolution of litigation; (2) the Court 's need to manage its Docket;. (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of cases on their merits; and (5) the availability of less drastic sanctions." Id. at 1423. .

ARGUMENT 14

14. The school district is liable under Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. (Title IX), under the continuing violation theory see *Havens Reality Corp v Coleman* 455 U.S. 363 365(1982) for sexual harassment and discrimination, hostile environment and retaliations, when the claim is not based solely on one incident of a instructor sexual assault on a student in a class, but is challenging an unlawful practice of continuing violation sexual discrimination, and the unlawful practices of school district, cover up of the complaint when she initially reported it to frame her and which resulted in more serious physical injury.

The writ of certiorari should be granted as it raises issues of importance in regards to Public Safety Under the current law of Title IX there is a fundamental incentive for school district employees and potential employees to be asked to cover up sexual assault complaints against other school district employees by their employer the School District.

Petitioner is a member of a protected class, who was subjected to unwelcome sexual harassment and discrimination which continued and became sufficiently severe and pervasive to alter the conditions of petitioner's education and the cumulative effect was both objectively and subjectively offensive, such that a reasonable person would find it hostile or abusive and the victim in fact did perceive it to be so; and was badly physically injured on account of it, and that a basis for school district liability has been established. See *Gebser, v. Lago Vista Independent School District* 524 U.S. 274; 118 S. Ct. 1989; 141 L. Ed. 2d 277; (June 22nd 1998) Faragher, 524 U.S. at 787-89; Harris, 510 U.S. at 20-23; [**39] Meritor, 477 U.S. at 65-73.

CONCLUSION

Fore the foregoing reasons, petitioner Angela Bernhardt requests that a Writ Of Certiorari issue in this case.

Dated: 1st February 2002

Respectfully Submitted,

A Bernhardt

Angela Bernhardt
Petitioner In Pro Per

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, & COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

APPENDIX A
FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

APPENDIX A

ENTERED 25TH JUNE 2001

UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT MEMORANDUM OPINION

ANGELA BERNHARDT,

Plaintiff-Appellant,

v. SANTA MONICA COLLEGE, a public entity; et al.,

Defendants- Appellees.

Nos. 00-55596, 00-55530

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

June 11, 2001 **, Submitted

** The panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a) (2). Accordingly, we deny Bernhardt's request for oral argument.

June 25, 2001, Filed

NOTICE: [*1] RULES OF THE NINTH CIRCUIT COURT OF APPEALS MAY LIMIT CITATION TO UNPUBLISHED OPINIONS. PLEASE REFER TO THE RULES OF THE UNITED STATES COURT OF APPEALS FOR THIS CIRCUIT.

PRIOR HISTORY: Appeals from the United States District Court for the Central District of California.

D.C. No. CV-99-02598-JSL.

J. Spencer Letts, District Judge, Presiding.

DISPOSITION: No. 00-55596 AFFIRMED. No. 00-55930 AFFIRMED.

APPENDIX A

ENTERED 25TH JUNE 2001

UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT MEMORANDUM OPINION

COUNSEL ANGELA BERNHARDT, Plaintiff - Appellant (00-55596, 00-55530), Pro se, Los Angeles, CA.

For SANTA MONICA COLLEGE, SANTA MONICA COLLEGE COMMUNITY DISTRICT, SANTA MONICA COLLEGE BOARD OF TRUSTEES, SANTA MONICA

COLLEGE POLICE DEPARTMENT, R. L. JONES, RON MARABLE, EILEEN MILLER, PIEDAD ROBERTSON, ROBERT SAMMIS, JOANNE FIELDER,

Defendants - Appellees :

Mary L. Dowell, Esq.,

LIEBERT CASSIDY WHITMORE, Los Angeles, CA.

For BRENDA SIMMONS, HERB RONEY, DOROTHY EHRHART MORRISON, NANCY CATTELL, CAROL L. CURRY, ILLONA JO KATZ, PATRICK NICHELSON, ANNETTE SHAMEY,

Defendants - Appellees:

Mary L. Dowell, Esq., LIEBERT CASSIDY WHITMORE, Los Angeles, CA.

For STATE OF CALIFORNIA, OFFUNE OBIANEWE, DOES, 1-50, DOES, 1-100, Defendants - Appellees: No Appearance.

APPENDIX A

ENTERED 25TH JUNE 2001

UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT MEMORANDUM OPINION

For LOS ANGELES COUNTY SHERIFF [*2] DEPARTMENT, COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D. RUBIN, LEE BACA, SHERMAN MOTEN, TERRY JANUARY, Defendants - Appellees:

Jonathan H. Geller, Esq., OFFICE OF THE COUNTY COUNSEL, Los Angeles, CA.

JUDGES: Before: O'SCANNLAIN, SILVERMAN, & GOULD, Circuit Judges.

OPINION: MEMORANDUM * - - Footnotes- -* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as may be provided by 9th Cir. R. 36-3. -End Footnotes- -

In these consolidated appeals, Angela Bernhardt appeals pro se the district court's orders dismissing, without leave to amend, her civil rights action arising out of an alleged sexual harassment at Santa Monica College in 1994. We have jurisdiction under 28 U.S.C. § 1291. We affirm Nos. 00-55596 and 00-55930. With respect to Appeal No. 00-55596, we review de novo the district court's orders of dismissal entered on October 13, 1999, and February 29, 2000. Steckman v. Hart Brewing, Inc., 143 F.3d 1293, 1295 (9th Cir. 1998). [*3] We affirm on grounds that Bernhardt's state tort claims against the Santa Monica College defendants are barred by the doctrine of res judicata, and because Bernhardt failed to prosecute her remaining claims.

APPENDIX A

ENTERED 25TH JUNE 2001 - 9TH CIRCUIT: UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT MEMORANDUM OPINION

With respect to Appeal No. 00-55930, we have considered Bernhardt's contentions regarding the various orders raised in that appeal and we conclude that the district court did not abuse its discretion in issuing those orders. Accordingly, we affirm the orders raised in Appeal No. 00-55930, including, but not limited to, the district court's vexatious litigant order entered on May 1, 2000. See De Long v. Hennessey, 912 F.2d 1144, 1146-48 (9th Cir. 1990).

No. 00-55596 is AFFIRMED.

No. 00-55930 is AFFIRMED.

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL., & COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

APPENDIX B
FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

APPENDIX B

DISTRICT COURT ORDER ENTERED MAY 1ST 2000
UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
ORDER DECLARING PLAINTIFF A VEXATIOUS LITIGANT

ANGELA BERNHARDT
Plaintiff.
v.
SANTA MONICA COLLEGE, ET AL.,
Defendants CASE NO. CV- 99-2598 -JSL

On March 24, 2000, the court ordered plaintiff Angela Bernhardt to show cause (1) why she should not be declared a vexatious litigant pursuant to Fed.R. Civ. P. 11 and Local Rule 27A and (2) why the court should not prohibit the Clerk of the court from accepting any further filings from the plaintiff which relates to the allegations made in Case No.CV 99-2598_JSL unless plaintiff pays a deposit of $500.00 pec filing to the clerk, which would be forfeited if such filing is determined by the court to be frivolous.

On April 14th 2000., plaintiff filed her response to the order to Show Cause. The court has reviewed the papers filed in connection with this matter and is fully apprised of the relevant facts and law. Pursuant to Rule 11 of the Federal Rules Of Civil Procedure and Local Rule 27A, the court has considered the pattern of plaintiff's litigative conduct which has developed in this case and a - related case, Angela Bernhardt v. Los Angeles County, et al., CV 99-10121-JSL, (e.g., filing repeat meritless motions and other papers, naming multiple defendants against whom no cause of action could be stated and filing papers filled

APPENDIX B
DISTRICT COURT ORDER ENTERED MAY 1ST 2000
with frivolous arguments and conclusions), and concludes that plaintiff has abused the court's process and is likely to continue such abuse, unless protective measures are taken. It is therefore the court's conclusion that this order is necessary to discourage and control the vexatious
Accordingly,

IT IS HEREBY ORDERED that plaintiff Angela Bernhardt be declared a vexatious litigant pursuant to Federal Rule of Civil Procedure 11 and Local Rule 27A. The Clerk Of the Court shall accept no further filing from plaintiff Angela Bernhardt which related to the allegations made in Case No. CV-99-2598-JSL, unless

plaintiff pays a deposit of $500.00per filing to the clerk, which would be forfeited if such filing is determined by the court to be frivolous.

IT IS SO ORDERED - ENTERED ON MAY 1ST 2000
Spencer Letts
United States District Judge
DISTRICT DOCKET 93

PLAINTIFF FOUND TO BE A VEXATIOUS LITIGANT
BY DISTRICT COURT
CIVIL MINUTES GENERAL
ENTERED 26TH APRIL 2000
USDC Central District Of California

CIVIL MINUTES GENERAL
Case No CV-99-2598 JSL
Date 4/24/00

Bernhardt v Santa Monica College, et al.

APPENDIX B
PRESENT HON J. SPENCER LETTS
Nancy J. Webb
Deputy Clerk Terry Kramer, not present court reporter

ATTORNEYS FOR PLAINTIFFS
NOT PRESENT

ATTORNEYS FOR DEFENDANTS
NOT PRESENT

PROCEEDINGS: ORDER (In Chambers)

ON THE COURT'S OWN MOTION, the order to show cause why plaintiff should not be declared a vexatious litigant presently set on the Court's Calendar for 1st May 2000 is taken off calendar:

Other: Cause Has Not Been Shown. Plaintiff is found to be a vexatious litigant. Separate order to follow.

Entered April 26th 2000
DISTRICT DOCKET 92

ORDER DENYING PLAINTIFF'S MOTIONS AND ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE DECLARED A VEXATIOUS LITIGANT

ENTERED 24TH MARCH 2001

United States District Court Central District Of California

APPENDIX B
ENTERED 24TH MARCH 2001
FILED MARCH 24 2000
ANGELA BERNHARDT
Plaintiff
v.
SANTA MONICA COLLEGE ET AL., Defendants

ORDER DENYING PLAINTIFF'S MOTIONS AND ORDER TO SHOW CAUSE WHY PLAINTIFF SHOULD NOT BE DECLARED A VEXATIOUS LITIGANT

DISTRICT COURT DOCKET CV-99-2598-JSL

On March 20th, 2000, plaintiff Angela Bernhardt filed the following documents: (1) Notice of Motion & Motion Under FRCP 15 (A) to Reconsider Plaintiff Angela Bernhardt Amending Defendants' Caption on First Page Of First Amended Complaint; (2) Under FRCP (g) (sic) & FRCP 12 (h) (1) Motion To Reconsider the Court's Order Dated 28th Feb 2000, Etc.; and (3)Plaintiff's Notice Of Intent that Plaintiff Wishes To Amend the Complaint/First Amended Complaint for CV-99-2598-JSL Whenever Permitted to Do So to Ensure That The Claims Are Clearly Stated. ("March 20th, 2000 Motions").

Having reviewed the papers filed in connection with these matters, and being fully apprised of the relevant facts and law,

APPENDIX B
IT IS HEREBY ORDERED that the March 20, 2000 Motiions be DENIED.

IT IS FURTHER ORDERED that plaintiff appear before this court on May 1st 2000, at 1:00 p.m. to SHOW CAUSE: (1) why she should not be declared a vexatious litigant pursuant to Fed. R. Civ. P. 11 and Local Rule 27A, and (2) why the court should not prohibit the Clerk of the Court from accepting any further filings from plaintiff which relate to the allegations made in Case No. CV-99-2598 JSL, unless the Plaintiff pays a deposit of

$500.00 per filing to the clerk, which would be forfeited if such filing is determined by the court to be frivolous.
Plaintiff shall file a written response to this order to show cause no later that April 17th 2000. Defendants may file a reply no later that April 24, 2000. IT IS SO ORDERED.

DATED 3/24/00 J SPENCER LETTS
United States District Judge
ENTERED ON MARCH 24TH 2000
DISTRICT DOCKET 83

ENTERED 24 March 00
United States District Court
Central District Of California
CIVIL MINUTES GENERAL
Case No CV-99-2598-JSL Date 3/23/00

Bernhardt v Santa Monica College, et al.
PRESENT - HON J. SPENCER LETTS
ATTORNEYS NOT PRESENT
PROCEEDINGS: ORDER (In Chambers)
ON THE COURT'S OWN MOTION,

APPENDIX B

Plaintiff's Motion For Reconsideration presently set on the Court's calendar 4/17/00 is taken off calendar. and denied without a hearing and a separate order to follow.

Entered March 24 2000 - DISTRICT DOCKET 82

ORDER ENTERED 6TH MARCH 2000

United States District Court

Central District Of California

FILED MARCH 3 2000

ANGELA BERNHARDT

Plaintiff

v.

SANTA MONICA COLLEGE ET AL.,

Defendants

CV-99-2598-JSL

ORDER

Before the court is a document filed by Plaintiff Angela Bernhardt entitled "Notice of Motion and (1) Motion for Leave for Plaintiff Angela Bernhardt to Amend Caption Regarding Defendants of First Page Of First Amended Complaint; (2) Plaintiff Angela Bernhardt's Supplementary Declaration and Points and Authorities in Support of Equitable Estoppel on Personal Service...or in the Alternative Provision For Time to Serve them Now Personally Under FRCP 4 (m)."

Having reviewed the papers filed in connection with this mater and being fully apprised of the relevant facts and law.

IT IS HEREBY ORDERED that the plaintiff's motion be denied. The Court dismissed the remainder of the Defendants in its February 28th 2000 Order.

IT IS SO ORDERED.

APPENDIX B
DATED:3/3/00
J Spencer Letts
United States District Judge
ENTERED MARCH 6TH 2000 · DISTRICT COURT DOCKET 78

ENTERED 29TH FEBRUARY 2000
ORDER DISMISSING REMAINING DEFENDANTS FOR LACK OF PROSECUTION

United States District Court
Central District Of California
FILED 28TH FEB 2000
ANGELA BERNHARDT
Plaintiff
v.
SANTA MONICA COLLEGE ET AL.,
Defendants
CV-99-2598-JSL
ORDER DISMISSING REMAINING DEFENDANTS FOR LACK OF PROSECUTION
THIS CONSTITUTES NOTICE OF ENTRY AS REQUIRED BY FRCP RULE 77 (d)

On January 19, 2000, the Court issued an order to show cause why this case should not be dismissed against the remaining Defendants, Terry January, Sherman Moten, Offune Obianewe, the State Of California, and various Doe Defendants (the "Remaining Defendants") for lack of prosecution.

The Court has considered the papers filed in connection with this matter and is fully appraised of the relevant facts and law.

APPENDIX B

ORDER DISMISSING REMAINING DEFENDANTS FOR LACK OF PROSECUTION –ENTERED 29TH FEB 2000

Plaintiff has failed to show cause why the Remaining Defendants should not be dismissed. The State Of California is immune from suit pursuant to the Eleventh Amendment. In addition, Plaintiff's service of the summons and complaint on the Remaining Defendants was improper on several grounds.

PAGE 2

Federal Rule Of Civil Procedure 4 (e) (1) allows service of process within the United States "pursuant to the law of the state in which the district court is located...."[1] California law provides for service of the summons and complaint by mail as follows: A copy of the summons and of the complaint shall be mailed ..to the person to be served, together with two copies of the notice and acknowledgement provided for in subdivision (b) and a return envelope, postage pre-paid, addressed to the sender. Cal. Code Civ. P. 415.30 (a). The notice set forth in Section 415. 30 (b), which must be included with the summons and complaint, inter alia, directs the party to whom the summons and complaint are mailed to complete the notice form and return it to the sender within 20 days. If the addressee does not comply, he risks incurring "liability for the payment of any expenses incurred in serving a summons upon you in any other manner permitted by law." Cal. Code Civ. P. 415.30 (b) Plaintiff has submitted copies of documents entitled "Proof Of Service/Acknowledgement of Service" for the Remaining Defendants, which indicate Plaintiff's mailing of the summons and complaint and

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[1] Fed R. Civil P. 4 (e) (2) also provides for service of process: by delivering a copy of the summons and of the

APPENDIX B
ORDER DISMISSING REMAINING DEFENDANTS FOR LACK OF PROSECUTION – ENTERED 29TH FEB 2000

complaint to the individual personally or by leaving copies thereof at the individuals dwelling house or usual place of abode with some person of suitable age and discretion then residing therein or by delivering a copy of the summons and of the complaint to an agent authorized by appointment or by law to receive service of process. Because plaintiff served all of the Remaining Defendants by mail, this provision is not applicable

PAGE 3

other documents to the Remaining Defendants, and Fed. R. Civ. P. 4 (d) waivers to Terry January, Sherman Moten, and certain Doe Defendants. There is no evidence that Plaintiff served the Remaining Defendants with the notice required by Section 415. 30 (b). Not only does the "Acknowledgement of Service" contained in the form used by Plaintiff not comply with the statutory requirements of Section 415. 30 (b), but none of the forms are signed by any of the Remaining Defendants. There is no indication that Plaintiff ever attempted to serve the Remaining Defendants in any other manner.

The signatures of the person (s) purporting to make service also are unintelligible on the documents submitted by Plaintiff. "A summons may be served by any person who is at least 18 years of age and not a party to the action." Cal. Code civ. P. 414.10. If Plaintiff was the one to serve these documents by mail, such service was invalid.

Finally, the various Doe Defendants could not have been properly served as doe defendants. The purpose of service of process is to charge the defendant with notice of the pending action. See Volkswagenwerk Aktiengesellschaft v. Schlunk, 486 U.S. 694, 699, 108 S. Ct. 2104, 2108 (1988). Mailing a copy of the summons and complaint to "1-10 Caucasian Male Unknown Named

APPENDIX B
ENTERED 29TH FEBRUARY 2000
ORDER DISMISSING REMAINING DEFENDANTS
FOR LACK OF PROSECUTION
DISTRICT COURT DOCKET 77

Sheriff Deputy Does of Judge Laurence D Rubin's Courtroom R (Santa Monica Courthouse) and County of Los Angeles Sheriff's Department" and 1-50 Sheriff Deputy Does" does not provide "notice reasonably calculated... to appraise interested parties of pendency of the action ..." Mullane v Central Hanover Bank and Trust Co., 339 U.S. 306, 314, 70 S. Ct. 652, 657 (1950). In general, only after doe defendants are identified and

PAGE 4

an amended complaint naming the doe defendants is filed can those defendants be properly served.

In her reply to the order to the Order to show Cause, Plaintiff complains that Deputy County Counsel deliberately misled her to believe hat she had properly served defendants January and Moten. For example plaintiff clams that the Motion to Dismiss filed by Geller on behalf of various County Of Los Angeles defendants, dated August 25th, 1999, "was made to be intentionally ambiguous because Jonathan H. Geller had informed me in May 1999 that all County Of Los Angeles defendants had been served -- including Sheriff Sherman Moten and Sheriff Terry January" and that therefore, plaintiff believed that Moten's and January's exclusion from the motion to dismiss was a "typing error." February 11, 2000 Declaration of Angela Bernhardt at 2:8-16.

Plaintiff makes much of the fact that in the Motion to Dismiss, Geller indicated beneath his signature that he represented Moten and January, although they were not listed as defendants upon whose behalf the motion was being made. [2] Plaintiff's complaints even if true are without consequence.

APPENDIX B
ENTERED 29TH FEBRUARY 2000
ORDER DISMISSING REMAINING DEFENDANTS
FOR LACK OF PROSECUTION
DISTRICT COURT DOCKET 77

Moten and January were entitled to be represented by counsel in this action, even though they had not been served. The fact that they were represented by counsel did not excuse Plaintiff from her obligation to effect proper service. As set forth in his declaration, Geller deliberately excluded Moten and January from the Motion to Dismiss because they were never served. Neither Moten nor January (PAGE 5) ever appeared or took any other action in this case that would relieve plaintiff of her service obligations.[3]

[2] Plaintiff's complaint that Geller "never informed me that service had never been affected" also is without merit. Defendants have no such obligation.

ORDER For the reasons stated more fully herein, IT IS HEREBY ORDERED that the remaining Defendants in this action, Terry January, Sherman Moten, Offune Obianewe, the State of California, and the various doe defendants be DISMISSED. IT IS SO ORDERED

DATE: 2/28/00 J. SPENCER LETTS
United States District Judge

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[3] Plaintiff indicates that Moten and January were not served in any different manner than the other defendants in this case. Merely because the other defendants chose to waive their objections to plaintiff's defective serve did not obligate Moten and January to do the same. Moten and January never appeared or took any other action that would result in the waiver of proper service.

APPENDIX B

Entered JAN 25 2000 - ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION RE REMAINING DEFENDANTS STATE OF CALIFORNIA, SHERMAN MOTEN, TERRY JANUARY AND OFFUNE OBIANEWE

United States District Court
Central District Of California
CIVIL MINUTES GENERAL
Case No CV-99-2598 JSL

Date Jan 24, 2000
Bernhardt v Santa Monica College, et al.
PRESENT
HON J. SPENCER LETTS
Nancy J. Webb
Deputy Clerk none present
court reporter none present
ATTORNEYS PRESENT FOR PLAINTIFFS NOT PRESENT
ATTORNEYS PRESENT FOR DEFENDANTS NOT PRESENT

PROCEEDINGS: AMENDED ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION RE REMAINING DEFENDANTS STATE OF CALIFORNIA, SHERMAN MOTEN, TERRY JANUARY AND OFFUNE OBIANEWE

IT IS ORDERED that counsel show cause in writing not later than February 2nd 2000, why this action should not be dismissed for lack of prosecution.

APPENDIX B
Entered JAN 25 2000

In accordance with Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7.11, no oral argument will be heard on this matter unless ordered by the Court. The Order to Show Cause will stand submitted upon the filing of plaintiff (s)' response. The Court will consider as a satisfactory response the filing of the following on or before the date shown above.

Proof of service of summons and complaint on all defendants.

· DISTRICT DOCKET 70

Entered JAN 20 2000 ·PROCEEDINGS: ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION RE REMAINING DEFENDANTS - (DISTRICT DOCKET 68)

United States District Court

Central District Of California

CIVIL MINUTES GENERAL

Case No CV-99-2598-JSL

Date Jan 19, 2000

Bernhardt v Santa Monica College, et al.

PRESENT

HON J. SPENCER LETTS

ATTORNEYS

NOT PRESENT IT IS ORDERED that counsel show cause in writing not later than February 2nd 2000, why this action should not be dismissed for lack of prosecution.

APPENDIX B
Entered JAN 20 2000
ORDER TO SHOW CAUSE RE DISMISSAL FOR LACK OF PROSECUTION RE REMAINING DEFENDANTS
In accordance with Rule 78 of the Federal Rules of Civil Procedure and Local Rule 7.11, no oral argument will be heard on this matter unless ordered by the Court. The Order to Show Cause will stand submitted upon the filing of plaintiff (s)' response. The Court will consider as a satisfactory response the filing of the following on or before the date shown above. Proof of service of summons and complaint on all defendants.

ENTERED JAN 4 2000
ORDER DENYING PLAINTIFF'S REQUEST TO CORRECT OR MODIFY THE COURT'S DOCKET
United States District Court
Central District Of California

ANGELA BERNHARDT Plaintiff
v.
SANTA MONICA COLLEGE ET AL., Defendants
CV-99-2598-JSL
Before the court are two documents filed by plaintiff Angela Bernhardt entitled "Request to the Court Under FRAP 10 (e) (1) (2) Regarding Omission of Plaintiff's Opposition to County Of Los Angeles Motion To Dismiss Filed With District Court on 4th Oct 1999, in the Court Docket at 42 & For Inclusion Now" and "FRAP 10 (e) (1) & (2) (b) & (C) Request for Correction or Modification of the Record to Make a Separate entry on the Civil Docket That Plaintiff's First Amended Complaint Was On July 6th 1999, etc." in which plaintiff again requests that the court modify how certain entries appear on the court docket.

APPENDIX B

Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law.

IT IS HEREBY ORDERED that the plaintiff's requests be DENIED.

IT IS SO ORDERED

DATE JAN 4TH 2000

J SPENCER LETTS

United States District Judge

DISTRICT DOCKET 67

United States District Court

Central District Of California

FILED DEC 14TH 1999

ANGELA BERNHARDT

Plaintiff

v.

SANTA MONICA COLLEGE ET AL.,

Defendants

CV-99-2598-JSL

ORDER DENYING PLAINTIFF'S REQUEST TO CORRECT OR MODIFY THE RECORD AND CIVIL DOCKET

Before the court is a document filed by plaintiff entitled "Request to the Court for Corrections or Modifications of the Record and Civil Docket to Reflect the True Record, " in which plaintiff requests that the court modify how certain entries appear on the court's docket.

Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law,

APPENDIX B
ENTERED DEC 15TH 1999

IT IS HEREBY ORDERED that the plaintiff's request be DENIED. There does not appear to be any substantive error in the court's docket and the court does not have the power to make the modifications requested in the absence of such substantive error. IT IS SO ORDERED

J. Spencer Letts
United States District Judge.

DISTRICT DOCKET 61.

ENTERED ON OCT 18TH 1999
ORDER DENYING PLAINTIFF'S
EX-PARTE APPLICATION

United States District Court
Central District Of California

FILED OCT 15TH 1999

ANGELA BERNHARDT Plaintiff
v.
SANTA MONICA COLLEGE ET AL., Defendants

CV-99-2598-JSL

The ex parte application of plaintiff Angela Bernhardt to amend the first amended complaint, for leave to file additional exhibits to the first amended complaint, and to continue the motion to dismiss was decided without a hearing on Sept 30th 1999.

APPENDIX B
ENTERED ON OCT 18TH 1999
ORDER DENYING PLAINTIFF'S
EX-PARTE APPLICATION

Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law,

IT IS HEREBY ORDERED that plaintiff's ex parte application be DENIED.

IT IS SO ORDERED

DATE: 10 /15/1999 J. Spencer Letts
United States District Judge.
ENTERED ON OCT 18TH 1999
DISTRICT DOCKET 54.

[PLEASE NOTE THE PLAINTIFF'S EX PARTE APPLICATION & REQUEST TO CONTINUE THE MOTION TO DISMISS WAS FILED IN THE DISTRICT COURT ON 21ST SEPT 1999 AND WAS DENIED BY FRIDAY 24TH SEPT 1999 OVER THE TELEPHONE BY NANCY WEBB THE COURT'S CLERK SEE ORDER ENTERED 10/13/1999 BELOW]

ENTERED ON OCT 13TH 1999
ORDER GRANTING
DEFENDANTS' MOTIONS TO DISMISS

United States District Court
Central District Of California
FILED OCT 8TH 1999
ANGELA BERNHARDT
Plaintiff
v.
SANTA MONICA COLLEGE ET AL.,
Defendants

APPENDIX B
ENTERED ON OCT 13TH 1999
ORDER GRANTING
DEFENDANTS' MOTIONS TO DISMISS
CV-99-2598-JSL

The motion of defendants County Of Los Angeles, County Of Los Angeles Sheriff's Department, County of Los Angeles Santa Monica Municipal Court, Laurence D. Rubin, and Lee Baca ("County Defendants") to dismiss and he motions of defendants Santa Monica College, Santa Monica Community College District, Santa Monica College Board Of Trustees, Santa Monica College Police department., R.L. Jones, Ron Marable, Eileen Miller, Piedad Robertson, Robert Sammis, Joanne Fielder,

Brenda Simmons, Herb Roney, Dorothy Ehrhart Morrison, Nancy Cattell, Carol L.Curry, Illona Jo Katz, Patrick Nichelson, and Annette Shamey ("Santa Monica College Defendants") to dismiss were decided without a hearing on Sept 30th 1999.

Plaintiff filed her complaint on March 15th 1999. On the face of the complaint, plaintiff indicated her belief that the

Page 2

complaint would need to be amended. Pursuant to Federal Rule Of Civil Procedure 15 (a), plaintiff was entitled to file an amended complaint prior to the filing of any responsive pleading, or within twenty days of service. Plaintiff did not amend her complaint, and certain defendants filed responsive pleadings.

On May 3rd 1999, [Santa Monica College] defendants moved to dismiss plaintiff's complaint. Rather than opposing the motions to dismiss, on May 12th 1999, at the Informal status conference, plaintiff instead indicated that she had prepared an application for leave to amend the complaint, which was filed that day, wherein she acknowledge that her initial complaint was defective and

APPENDIX B
ENTERED ON OCT 13TH 1999
ORDER GRANTING
DEFENDANTS' MOTIONS TO DISMISS

requested additional time to prepare and file an amended complaint. Defendants agreed to abandon their objections to plaintiff's filing an amended complaint at that juncture of te case, and to permit plaintiff to amend her complaint within a reasonable time. [Santa Monica College] Defendants also agreed to withdraw their motion to dismiss. The court directed the parties to agree to a time certain by which plaintiff would file her amended complaint.

Rather than immediately proposing a deadline, as contemplated by the court, not until May 30th 1999, almost three weeks after the informal Status Conference, did plaintiff request that she be allowed another three months until Sept 1st 1999, to amend her complaint. Defendants proposed that the plaintiff be allowed 30 days to amend her complaint. The parties were unable to agree, and plaintiff filed another Motion for additional time to amend her complaint. Plaintiff's motion for additional time was denied by the court on June 29th 1999. On July 7 1999 [correction July 6th 1999] nearly four months after filing her complaint and nearly two months after her initial request to amend, plaintiff filed her first amended complaint .

On August 25th 1999, and Sept 3, 1999 the County Defendants and Santa Monica College defendants, respectively filed motions to dismiss plaintiff's first amended complaint. Rather than filing a timely opposition on Sept 21st 1999, plaintiff instead filed an ex parte application for more time to prepare and file an second amended complaint, for leave to file additional exhibits to the first amended complaint, and for a continuance of the hearing on the motions to dismiss. Plaintiff's ex parte application was denied.

APPENDIX B
ENTERED ON OCT 13TH 1999
ORDER GRANTING
DEFENDANTS' MOTIONS TO DISMISS

On Oct 4th 1999, two weeks after it was due, plaintiff filed a document entitled "Plaintiff Angela Bernhardt's Early Opposition to Santa Monica College et al Defendants [sic] Motion To Dismiss Plaintiff's complaint under FRCP 12 (b), A More Thorough Version Shortly, " in which she states that "a much fuller version [is] to follow shortly." Opposition at 4.

At the time her initial complaint was filed, plaintiff knew it was deficient and would need to be amended. Plaintiff was given ample time, almost four months to correct the defects in her initial complaint and submit her claims to the court in an amended complaint.

By repeatedly requesting additional time to file amended complaints that were not yet drafted, and now by claiming that "a much fuller version' of her opposition is "to follow shortly, " plaintiff has attempted to avoid having the court examine the merits of her claims. Plaintiff's requests have not been valid, and have forced defendants to incur needless additional expense in opposing plaintiff's requests.

PAGE 4

The basic facts underlying plaintiff's complaint have not changed. Plaintiff claims that in 1994, defendant Jones sexually harassed her, and that over the next few years, the remainder of the defendants failed to handle properly plaintiff's reporting of the harassment. Defendant's have a right to respond to the allegations against them and, therefore, to have the court act on their motions to dismiss without further delay.

Having reviewed the papers filed in connection with this matter including plaintiff's opposition brief [s] and being fully apprised of the relevant facts and law,

APPENDIX B
ENTERED ON OCT 13TH 1999
ORDER GRANTING
DEFENDANTS' MOTIONS TO DISMISS
IT IS HEREBY ORDERED that the motion of the County Defendants to dismiss be GRANTED.

IT IS FURTHER ORDERED that the motion of the Santa Monica College Defendants to dismiss be GRANTED.
The complaint against the County Defendants and the Santa Monica College Defendants shall be dismissed with prejudice.

IT IS SO ORDERED
DATE; 10 /8/1999 J. Spencer Letts
United States District Judge.
ENTERED ON OCT 13TH 1999
DISTRICT DOCKET 53

CIVIL MINUTES GENERAL
ENTERED ON OCT 1st 1999
FILED 29th SEPT 1999
United States District Court Central District Of California
Case No CV-99-2598-JSL Date 9/29/1999
Bernhardt v Santa Monica College, et al.

PRESENT HON J. SPENCER LETTS

Nancy J. Webb Deputy Clerk court reporter

ATTORNEYS PRESENT FOR PLAINTIFFS
NOT PRESENT - ATTORNEYS PRESENT FOR DEFENDANTS NOT PRESENT

APPENDIX B
ENTERED ON OCT 1st 1999
FILED 29TH Sept 1999 –
ORDER GRANTING - DEFENDANTS' MOTIONS TO DISMISS
PROCEEDINGS: ORDER (In Chambers)
ON THE COURT'S OWN MOTION, defendants' Motion To Dismiss
presently set on the Court's calendar [Oct 4th1999] is taken off calendar

GRANTED without a hearing. Separate Order To Follow.

Entered Oct 1st 1999
DISTRICT DOCKET 51

TRANSCRIPT OF PROCEEDINGS -CONFERENCE CALL - Tuesday July 6th 1999

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

THE HONORABLE J.SPENCER LETTS, PRESIDING
UNITED STATES DISTRICT COURT JUDGE
ANGELA BERNHARDT
PLAINTIFF,
Vs.
COUNTY OF LOS ANGELES ET AL,
DEFENDANTS
CV-99-2598-JSL

APPENDIX B
TRANSCRIPT OF PROCEEDINGS -TUESDAY 6TH JULY 1999 LOS ANGELES CALIFORNIA
CONFERENCE CALL 1.32 o'clock p.m

TERRY KRAMER CVR - OFFICIAL REPORTER
UNITED STATES COURTHOUSE -312 NORTH SPRING STREET LOSANGELES CALIFORNIA 90012 (213) 680 1908

APPEARANCES - FOR THE PLAINTIFF:
Angela Bernhardt (Pro -Se)
P.O. Box 480509 Los Angeles California 90048

For the Santa Monica [College] Defendants:
Liebert, Cassidy & ~~Frierson~~ [Whitmore]
6033, West Century Boulevard , Suit 601
Los Angeles, California 90045BY: Mary Dowell
Attorney at Law

For the County of Los Angeles Defendants:
Los Angeles County 500 West Temple Street, 648 Los Angeles, California 90012 BY: Jonathan Geller Attorney at Law.

THE COURT: I guess we're going to have to do things on the record, so we're on the record.

It seems to me that if I'm understanding correctly, everything has been resolved, it's a matter of saying in one place what's been resolved and how.

What we got when we were together, my memory is that because the answer was filed before the motion to dismiss, the original motion to dismiss, that there would probably be a right to amend.

APPENDIX B
TRANSCRIPT OF PROCEEDINGS -TUESDAY 6TH JULY 1999 LOS ANGELES CALIFORNIA
CONFERENCE CALL 1.32 o'clock p.m

MS. BERNHARDT: Right.

THE COURT: And nobody wanted to litigate that or find out what the answer was, so what we did was we gave 30 days, which is the ordinary length of time to amend.

MS. BERNHARDT: I was -- Your Honor, nobody told me 30 days, so that's why I didn't operate within the 30 days. If I'd know[n], I would have operated within 30 days.

What happened, Your Honor, was that you said for me to arrange with Mary and Jonathan, And what happened was that I did ask for September. I had not--

THE COURT: The answer to that is no, but --

MS. BERNHARDT: I understand that, Your Honor, but I didn't -

THE COURT: Okay.

MS. BERNHARDT: I mean, if I'd known 30 days, I would have operated within the 30 days.

I had a letter --

THE COURT: Do you know what the word moot means?

MS. BERNHARDT: Pardon?

THE COURT: Do you know what the word moot, m-o-o-t, means? It means that the issue has been resolved, so we don't need to talk about it. That issue has been resolved. I understand that the thing you filed on July 6 [1 hour prior] is the proposed amended complaint.

MS. BERNHARDT: It's a little repetitive, excuse me. Yes.

THE COURT: So if I accept that as the amended complaint, which I will --

APPENDIX B
TRANSCRIPT OF PROCEEDINGS –
CONFERENCE CALL - Tuesday July 6th 1999, Los Angeles California 1.32 o'clock p.m

MS BERNHARDT: Thank you, Your Honor.

THE COURT: -- then if there is going to be a motion to dismiss, now is the time to start considering that.

MS. BERNHARDT: Yes, Your Honor.

THE COURT: Does everybody understand that?

MS. BERNHARDT. Yes.

MR. GELLER: Was something filed today, Your Honor, because I'm in the dark on this.

THE COURT: Okay.

MS. DOWELL: So am I, Your Honor. If there's been an amended complaint filed today, it has not reached me yet.

THE COURT: I may have a courtesy copy. I'm not sure what I have, but I have it in hand, so you will have it. Am I correct that --

MS. BERNHARDT: It was served today, Your Honor.

THE COURT: Then in that circumstance am I correct that all of the pre-existing questions have become irrelevant? Assuming that I'll accept it, and I just said I will.

MS. DOWELL: I think that may be a fair statement then, Your Honor. And I'm prepared to proceed as though whatever has been filed today is the operative complaint, that it is your order that you will accept it. I have not seen it yet so of course I can't comment how I would proceed.

THE COURT: Of course.

MS. DOWELL: I would like to ask the Court for 20 days to evaluate it and decide what we're going to do and file whatever responsive --

APPENDIX B
TRANSCRIPT OF PROCEEDINGS –
CONFERENCE CALL - Tuesday July 6th 1999, Los Angeles California 1.32 o'clock p.m

THE COURT Let me alert you to one other thing, which usually isn't relevant in the ordinary course and I don't think it's going to be, but I'm going to leave here on the 22ND and I will not be back until roughly the 7TH September, so you'll have plenty of time to think about what do do.

MS. BERNHARDT: Okay.

THE COURT: Okay?

MS. BERNHARDT: Okay.

MS. DOWELL: Well, that will be just fine, Your Honor. I appreciate that very much. Presumably we can't set any motion to be heard until after 7th of September.

THE COURT: I was going to make a joke, but—

MS. DOWELL: I'll take it as having been made. After September 7th is presumably acceptable to me and my client.

MR. GELLER: It's fine with me as well, Your Honor.

THE COURT: Then I'm glad. I think to the extent there was an interim of confusion, it undoubtedly stemmed from me. And if it did, I'm sorry, but I think we're straight now.

MS. BERHARDT: Yes.

THE COURT: Okay?

MS. BERHARDT: Yes: than you, Your Honor.

THE COURT: Then I think we can get off the phone unless somebody else has something to say.

MS. DOWELL: Let me be real sure I understand, Your Honor.

THE COURT: Yes.

MS. DOWELL: The proposed amended complaint filed today is to be considered the operative complaint.

APPENDIX B
TRANSCRIPT OF PROCEEDINGS –
CONFERENCE CALL - Tuesday July 6th 1999, Los Angeles California 1.32 o'clock p.m

THE COURT: Right.
MS. DOWELL: So at this point, whatever we've done in the past is now moot.
THE COURT: That's correct.
MS. DOWELL: Mr. Geller and I effectively have until 20 days before the first motion day after September 7th to get something on file –
THE COURT: Right.
MS. DOWELL: –either an answer or a motion to dismiss or some other responsive pleading, and then we will take it from there.
THE COURT: Yes. I think whether by luck or bad management or both, we are on a nice, clean position now and we can just go forward. Okay?
MS. BERHARDT: Great.
MS. DOWELL: Yes.
MS. BERHARDT: Thank you, Your Honor.
MR. GELLER: Thank you, Your Honor.

CERTIFICATE
I CERTIFY THAT THE FOREGOING IS A CORRECT TRANSCRIPTION, REPORTED TO THE BEST OF MY ABILITIES, OF THE PROCEEDING IN THE ABOVE ENTITLED MATTER.

TERRY KRAMER
CERTIFIED VERBATIM REPORTER

1-12-2000

APPENDIX B
Entered 7/1/ 1999
CIVIL MINUTES GENERAL
Case No CV-99-2598-JSL Date 6 /29/1999

United States District Court
Central District Of California
Bernhardt v Santa Monica College, et al.
PRESENT -- HON J. SPENCER LETTS
Nancy J. Webb Deputy Clerk.

Court reporter not present

ATTORNEYS NOT PRESENT FOR PLAINTIFFS
ATTORNEYS NOT PRESENT FOR DEFENDANTS

PROCEEDINGS: ORDER (In Chambers)
Entered 7/1/ 1999

ON THE COURT'S OWN MOTION, the motion for leave to file a supplemental complaint, the motion to amend complaint, the motion for leave for time to amend complaint presently set on the Court's calendar July 12th 1999 is taken off calendar

DENIED without a hearing..
DISTRICT DOCKET 38

ENTERED 1ST JULY 1999
ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE FOR TIME TO AMEND COMPLAINT
United States District Court
Central District Of California

APPENDIX B
ENTERED 1ST JULY 1999 ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE FOR TIME TO AMEND COMPLAINT
ANGELA BERNHARDT Plaintiff

v.

SANTA MONICA COLLEGE ET AL., Defendants
CV-99-2598-JSL

The motion of plaintiff ANGELA BERNHARDT, for leave for time to amend complaint was decided without a hearing on June 29th 1999. Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law.
IT IS HEREBY ORDERED that the motion of plaintiff for leave for time to amend complaint be DENIED.
IT IS SO ORDERED.
DATED JUNE 29TH 1999
J. Spencer Letts United States District Judge.

ENTERED ON 7/1/ 1999 DISTRICT DOCKET 37

ENTERED ON 7/1/ 1999
ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUPPLEMENTAL COMPLAINT

United States District Court
Central District Of California

ANGELA BERNHARDT Plaintiff

v.

SANTA MONICA COLLEGE ET AL., Defendants
CV-99-2598-JSL

APPENDIX B

ENTERED 1ST JULY 1999

ORDER DENYING PLAINTIFF'S MOTION FOR LEAVE TO FILE A SUPPLEMENTAL COMPLAINT

The motion of plaintiff ANGELA BERNHARDT, for leave for leave to file a supplemental complaint was decided without a hearing on June 29th 1999.

Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law.

IT IS HEREBY ORDERED that the motion of plaintiff for leave for time to amend complaint be DENIED. IT IS SO ORDERED.

DATED JUNE 29TH 1999

J. Spencer Letts United States District Judge.

ENTERED ON 7/1/ 1999

DISTRICT DOCKET 36

[NOTE THE SUPPLEMENTAL COMPLAINT WAS FILED AS A SEPARATE CASE ON OCT 4TH 1999 CV-99-10121-JSL –MC AND IS NOW USCA #9th CASE 00-55524-CURRENTLY PENDING IN 9th-USCA - ORAL ARGUMENT HAS BEEN HEARD]

APPENDIX B
ENTERED 1ST JULY 1999
ORDER DENYING PLAINTIFF'S MOTION TO AMEND COMPLAINT
United States District Court Central District Of California

ANGELA BERNHARDT Plaintiff

v.

SANTA MONICA COLLEGE ET AL., Defendants

CV-99-2598-JSL

The motion of plaintiff ANGELA BERNHARDT, to amend her complaint was decided without hearing on June 29th 1999. Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law,
IT IS HEREBY ORDERED that the motion of plaintiff to amend her complaint be DENIED.
IT IS SO ORDERED

DATED 29TH JUNE 1999 J. Spencer Letts
United States District Judge.

ENTERED ON 7/1/ 1999 DISTRICT DOCKET 35

APPENDIX B
ENTERED 4TH JUNE 1999
ORDER DENYING PLAINTIFF'S APPLICATION AND REQUEST FOR AN ATTORNEY

United States District Court
Central District Of California

ANGELA BERNHARDT
Plaintiff
v.
SANTA MONICA COLLEGE ET AL.,
Defendants

CV-99-2598-JSL

The Application and Request for Attorney of Plaintiff, ANGELA BERNHARDT ,was decided without a hearing on June 2nd 1999.
Having reviewed the papers filed in connection with this matter and being fully apprised of the relevant facts and law.

IT IS HEREBY ORDERED that Plaintiff's application and request be DENIED

IT IS SO ORDERED - DATED 2ND JUNE 1999
J. Spencer Letts United States District Judge.

ENTERED ON 6/4/ 1999
DISTRICT DOCKET 25

APPENDIX B
Entered 17th May 1999
CIVIL MINUTES GENERAL
Case No CV-99-2598-JSL
Date 5 /12/1999
United States District Court
Central District Of California

Bernhardt v Santa Monica College, et al.
PRESENT
HON J. SPENCER LETTS
Nancy J. Webb Deputy Clerk.

Court reporter not present

ATTORNEYS PRESENT FOR PLAINTIFFS: - Pro –Se

ATTORNEYS PRESENT FOR DEFENDANTS – Jonathan Geller, Mary L. Dowell

PROCEEDINGS: INFORMAL STATUS CONFERENCE (In Chambers)

Informal status conference held. The parties are to further discuss settlement and contact the Court within 2 weeks. The parties are also to submit a stipulation re motions and amended complaint.

Entered 17th May 1999

DISTRICT DOCKET 22

APPENDIX B
FILED MARCH 19TH 1999
ORDER TO REASSIGN CASE (MAGISTRATES JUDGE)
CASE NUMBER CV-99-2598-JSL (RNB)

PLAINTIFF(S) ANGELA BERNHARDT
V
DEFENDANT (S)SANTA MONICA COLLEGE, et al.

The undersigned Magistrate Judge to whom the above-entitled case was assigned pursuant to General Order 194, being of the opinion that he/she should not hear said case, by reason of recusal being warranted to avoid the appearance of impropriety, in that one of the named defendants (Judge Laurence D Rubin) is a former law firm colleague of mine with whom I have had more than a casual relationship, and this defendant's father is a former law firm partner of mine with whom I have had a close professional and personal relationship. Hereby orders the case reassigned by the clerk in accordance with General Order 224, and IT IS FURTHER ORDERED that the Clerk serve copies of this order forthwith by first class mail for all parties appearing in this case.

Dated March 17th 1999 RN Block.

[OMITTED]

FILED MARCH 19TH 1999

DISTRICT COURT DOCKET 3 OR ER-V1-APAGE 74.

APPENDIX B
ORDER VACATING REFERENCE TO MAGISTRATE JUDGE

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
CASE NUMBER CV-99-2598-JSL (SH)

PLAINTIFF(S)
ANGELA BERNHARDT

DEFENDANT (S)
SANTA MONICA COLLEGE, et al.

GOOD CAUSE APPEARING, IT IS ORDERED that the reference of the within matter to United States Magistrate Judge, Stephen Hillman pursuant to General Order 194 is hereby revoked, vacated and set aside. All further proceedings in this action shall be before the undersigned District Judge.

IT IS FURTHER ORDERED that the within matter shall not be randomly assigned to a magistrate judge for any discovery matters referred in the future.

DATED: 3/25/99 Spencer Letts United States District Judge

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, & COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

APPENDIX C
FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

APPENDIX C
DATE OF ENTRY OF CALIFORNIA SMALL CLAIMS JUDGMENT - 6TH OCT 1998
SANTA MONICA CALIFORNIA - SMALL CLAIMS CASE NO. SM 98A01437 –FILED ON 09/02/98
(Document - California Small Claim -District Docket 1 – Exhibit K1 & K2 or United States Court Of Appeals for 9th Circuit Excerpt Of The Record Volume 1 Page 61 & Page 62)
SANTA MONICA JUDICIAL DISTRICT (19484)
ADDRESS - 1725, MAIN STREET, SANTA MONICA, CALIFORNIA

PLAINTIFF
BERNHARDT ANGELA
P.O. BOX 480509
LOS ANGELES CA 90048

DEFENDANT
MARABLE RON POLICE OFFICER
POLICE DEPARTMENT SANTA MONICA COLLEGE
1900 PICO BLVD SANTA MONICA CA 90605

DEFENDANT
SANTA MONICA COLLEGE
1900 PICO BLVD SANTA MONICA CA 90605

DEFENDANT
SANTA MONICA COMMUNITY COLLEGE DISTRICT
1900 PICO BLVD SANTA MONICA CA 90605

DEFENDANT
MARABLE RON
1900 PICO BLVD SANTA MONICA CA 90605

APPENDIX C
DATE OF ENTRY OF CALIFORNIA SMALL CLAIMS JUDGMENT 6TH OCT 1998
SMALL CLAIMS CASE NO. SM 98A01437 –
FILED ON 09/02/98
SANTA MONICA JUDICIAL DISTRICT (19484) ADDRESS - 1725, MAIN STREET, SANTA MONICA, CALIFORNIA

(Document - California Small Claim) (Complaint - District Docket 1 – Exhibit K1 & K2) or (United States Court Of Appeals for 9th Circuit Excerpt Of The Record Volume 1 Page 61 & Page 62.)

PLAINTIFF'S CLAIM

1. [X] A. Defendant owes me the sum of $5000.00 not including court costs, because (describe claim and date):

EMOTIONAL INJURY RESULTING FROM POLICE OFFICER RON MARABLE'S COVER UP OF MY REPORTING TEACHER LARRY JONES SEXUAL ASSAULT TO HIM, HIS COVER UP OF INTERROGATION OF ME, NEGLIGENCE, & DEFAMATION OF CHARACTER. DATE OF DISCOVERY - 03/17/98 1b [omitted]

2. [ ] This claim is against a government agency, and I filed a claim with the agency. My claim was denied by the agency, or the agency did not act on my claim before the legal deadline. *[See Form SC-150]*

APPENDIX C

DATE OF ENTRY OF CALIFORNIA SMALL CLAIMS JUDGMENT 6TH OCT 1998

SMALL CLAIM FILED ON 09/02/98

SMALL CLAIMS CASE NO. SM 98A01437 –SANTA MONICA JUDICIAL DISTRICT (19484)

3. [X] a) I have asked defendants to this money, but it has not been paid.

4. This court is the proper court for the trial because [B] SANTA MONICA COLLEGE POLICE DEPARTMENT

(Document - California Small Claim) (Complaint - District Docket 1 – Exhibit K1 & K2) or (United States Court Of Appeals for 9th Circuit Excerpt Of The Record Volume 1 Page 61 & Page 62.)

1718 PEARL STREET SANTA MONICA CA 90405

5. I have not filed more that one other small claim action anywhere in California during this calendar year in which the amount demanded is more than $2, 500.00cents.

6. I have not filed more than 12 claims in this court, including this claim during the previous 12 months.

7. I may talk to an attorney about this claim, but I cannot be represented by an attorney at the trial in the small Claims court.

b. I must appear at the time and place of trial and bring all witnesses books receipts and other papers or things to prove my case.

c. I have no right of appeal on my claim, but I may appeal a claim filed by the defendant in this case.

APPENDIX C
DATE OF ENTRY OF CALIFORNIA SMALL CLAIMS JUDGMENT 6TH OCT 1998
SMALL CLAIM FILED ON 09/02/98
SMALL CLAIMS CASE NO. SM 98A01437 –SANTA MONICA JUDICIAL DISTRICT (19484) 1725, MAIN STREET, SANTA MONICA, CALIFORNIA

(Document - California Small Claim) (Location Complaint - District Docket 1 – Exhibit K1 & K2) or (United States Court Of Appeals for 9th Circuit Excerpt Of The Record Volume 1 Page 61 & Page 62.)

d. If I cannot afford to pay the fees for filing or service by a sheriff, marshal, or constable, I may ask that the fees be waived.
8. I have received and read the sheet explaining some important rights of plaintiffs in the small claims court.

I declare under penalty of perjury, under the laws of the State Of California, that the foregoing is true and correct.

Date 09/02/98 PRINT PLAINTIFF'S NAME
ANGELA BERNHARDT

ORDER TO DEFENDANT
You must appear in this court on the trial date and time SHOWN BELOW. If you do not agree with the plaintiff's claim, burign all witnesses, books, receipts, and other papers or things with you to support your case.

HEARING DATE 10/6/98 TUESDAY 09.00 A.M. WEU

FILED ON (date): 09/02/98

APPENDIX C

DATE OF ENTRY OF CALIFORNIA SMALL CLAIMS JUDGMENT 6TH OCT 1998

SMALL CLAIM FILED ON 09/02/98

SMALL CLAIMS CASE NO. SM 98A01437 (OMITTED)

THE COUNTY PROVIDES SMALL CLAIMS ADVISORS SERVICES FREE OF CHARGE. READ THE INFORMATION ON THE REVERSE.

SC-100 (Rev. 1- 98) PLAINTIFF'S CLAIM AND ORDER TO DEFENDANT (Small Claims)

APPENDIX C

CALIFORNIA SMALL CLAIMS JUDGMENT ENTERED OCT 6TH 1998

SMALL CLAIMS CASE NO. SM 98A01437 –FILED ON 09/02/98

(Document - California Small Claims Judgment – Location Complaint - District Court Docket 1 Exhibit N1 & N2. & USCA 9th Circuit Excerpt Of The Record Volume 1 Page 67 & 68)

SMALL CLAIMS CASE NO: 98A01437

SANTA MONICA JUDICIAL DISTRICT (19484)

1725, MAIN STREET, SANTA MONICA, CALIFORNIA 90401

PLAINTIFF
BERNHARDT ANGELA
P.O. BOX 480509
LOS ANGELES CA 90048

APPENDIX C
CALIFORNIA SMALL CLAIMS JUDGMENT
ENTERED OCT 6TH 1998
SMALL CLAIM FILED 2ND SEPT 1998
SMALL CLAIMS CASE NO: 98A01437
SANTA MONICA JUDICIAL DISTRICT (19484)

DEFENDANT MARABLE RON
1900 PICO BLVD SANTA MONICA CA 90605

DEFENDANT MARABLE RON POLICE OFFICER
1900 PICO BLVD SANTA MONICA CA 90605

DEFENDANT
SANTA MONICA COLLEGE
1900 PICO BLVD SANTA MONICA CA 90605
DEFENDANT SANTA MONICA COMMUNITY COLLEGE DISTRICT 1900 PICO BLVD SANTA MONICA CA 90605

JUDGMENT WAS ENTERED AS STATED BELOW ON (DATE) 10/06/98

<u>Defendant does not owe plaintiff any money on plaintiff's claim.</u>

Clerk's certificate of mailing Santa Monica California on 10/06/98 By Lakeesha Lyles Deputy
The County provides small claims advisor's free of charge.
JUDGMENT & NOTICE OF ENTRY OF JUDGEMENT
[Small Claims Judgment attached to Complaint -District Court Docket 1 -Exhibit N1 & N2. & USCA 9th Circuit Excerpt Of The Record Volume 1 Page 67 & 68.]

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, &
COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

APPENDIX D
FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

APPENDIX D

Date Of Letter November 3, 1997

Results Of Santa Monica College's Sexual Harassment And Unlawful Discrimination Investigation

[Location Of Document In the Record District Court Docket 14 Exhibit J] & [Ninth Circuit Excerpt Of The Record Volume 1 Page 101]

CONFIDENTIAL Santa Monica College

Ms. Angela Bernhardt

P.O. Box 480509 Los Angeles, California 90048

Dear Ms. Bernhardt

In accordance with paragraph 2B of Santa Monica Community College District's (SMCCD) Administrative Regulation 4112.2f, Unlawful Discrimination, Affirmative Action, Title IX and Sexual Harassment Complaint procedures for Job Applicants, Employees and Students, and investigation was conducted into your allegation of sexual harassment, dated June 16th 1997, by Mr. Larry Jones, and instructor within the Art department. The results of the investigation determined there was no violations of the District's policy against unlawful discrimination, to include sexual harassment and a one (1) time occurrence of an action, where the individual was put on notice about the incident, does not constitute harassment. A copy of the complete investigation is on file within the Human Resources Office.

The SMCCD is committed to an environment free of unlawful discriminatory and harassment practices and encourages its faculty, staff and students to report such occurrences in a timely fashion, or as soon as possible to appropriate District authority. Enclosed for your information, please find a copy of the SMCCD brochure on unlawful discrimination, and the California Department of Fair Employment and Housing's brochure on sexual harassment. Please contact me at 310 -452 9361 if you have questions or require additional information

APPENDIX – D

regarding this correspondence. Sincerely - Jo Ann R Fielder Assistant Dean, Equal Employment Opportunity Diversity

Santa Monica Community College District, 1900 Pico Blvd Santa Monica CA-90405-1628 (310) 450 5150 Piedad Robertson Superintendent and President

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Date Of Letter February 9, 1998

Santa Monica College Administrative Determination & Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1Ninth Circuit Excerpt Of The Record Volume 1 page 98]

Memorandum

HUMAN RESOURCES OFFICE

TO: Ms. Angela Bernhardt
Santa Monica College

FROM: Robert L. Sammis J.D.
Vice President, Human Resources

DATE: February 9, 1998

SUBJECT: Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

The attached documentation is a summary of the investigation report into the formal complaint of harassment submitted by you which you alleged harassment by Mr. Larry Jones, an instructor within the Art Department. This summary report is being provided

APPENDIX D

DATE OF LETTER 9TH FEB 1998

Santa Monica College Summary of the Investigation into allegations of Sexual Harassment Against Mr. [R] Larry Jones, Instructor, Art Department, by Ms. Angela Bernhardt, Student

to you in accordance with Section 2 D of Administrative Regulation 4112.2f of the Diversity/Affirmative Action Plan for Santa Monica Community College District dated 1995, copy at Attachment. It has been determined per the attached investigation summary that no action in violation of the District's policies and procedures regarding discrimination and harassment has occurred and the recommendations specified in the report will be implemented

You have the right to appeal to the District's governing Board and the Chancellor pursuant to California Code Of Regulations, Title V, Section 59338, within fifteen (15) days upon receipt of the determination, copy at attachment. This appeal must be submitted in writing. The Board will review the original complaint, the investigative report, the administrative determination and the appeal and issue a final decision within forty-five 45) days. A copy will be provided to you. If the Board does not act within the 45 day period, the administrative determination shall be deemed approved and shall become the final decision in the matter.

At any time during the District's process, you also have the right to file a complaint with the Department of Education, Office Of Civil Rights, in accordance with Title IX of the Education Amendments of 1972. The address and telephone number are as follows:

APPENDIX D
DATE OF LETTER 9TH FEBRUARY 1998
Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

1. Ms Angela Bernhardt, a current student at Santa Monica College, made a statement in a May 28th, 1997 letter to Ms. Brenda Simmons, Associate Dean, Admissions and Records, regarding a possible disciplinary action involving a conflict with another student that she had been sexually harassed by Mr. Larry Jones, and instructor in the Art Department (See Attachment A). Her statement is quoted in part: " [R] Larry Jones also condones harassment of students, as I have been sexually harassed by him in his Photo 50 class."

II. Investigation Interviews and Summaries The following individuals were interviewed in conjunction wth this investigation.

a. Ms. Angela Bernhardt, student, Sept 17 & 19, 1997.
b. Mr. Larry Jones, Instructor, Art Department, September 29th 1997.
c. Dr. Dorothy Gelvin, Dean, Personnel, Sept 9th 1997
d. Mr. Daniel Cano, Dean, Admissions and Records, September 10th 1997

III Key Factual Findings Of The Investigation

a. Ms. Bernhardt did not file a complaint or inform District personnel of the alleged sexual harassment alluded to in her statement of May 28th 1997.

APPENDIX D
DATE OF LETTER 9TH FEBRUARY 1998
Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

b. There were other students in the class during the alleged incident but Ms. Bernhardt was unaware that they observed or heard anything concerning the situation.

c. Mr. Jones categorically denies having any contact with Ms. Bernhardt or behaving in any way that could be construed as sexually harassing while she was a student in his class or otherwise.

e. There are no witnesses to the alleged incident.

IV. Conclusions

As a result of the investigation information provided it has been concluded that:

a There is no information or evidence to corroborate or substantiate the incident alleged by Ms. Bernhardt.

b. There is no evidence to infer that the District's policy of non-discrimination and harassment have been violated.

APPENDIX D
DATE OF LETTER 9TH FEBRUARY 1998
Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

v. Recommendations

The goal of any investigation of possible violations of District Policies and procedures is to stop the negative action behavior and find a workable solution for the good of the individuals involved and the organization. The following recommendations are based upon the information obtained during the conduct of the investigation.

A. Ms. Bernhardt and Mr. Jones to be informed of the District's policy against discrimination and harassment and the options and reporting procedures available to staff and students when such incidents should occur.

B. Ms. Bernhardt and Mr. Jones to be provided copies of the information folder on sexual harassment from the State Department Of Fair Employment and Housing and the no discrimination and harassment folder distributed by the Santa Monica Community College District.

C. This investigation document remain active and be closed one (1) year following the document date with file retention to be not more than three (3) years.

[LOCATION OF DOCUMENT - District Docket 14 Exhibit I 2 & I 3 Ninth Circuit Excerpt From The Record Volume 1 Page 99 & 100]

APPENDIX D

Sheriff Leroy D Baca's Letter To Angela Bernhardt Regarding County Of Los Angeles Sheriff's Investigation Of Petitioner's Alleged Assault And Battery/Excessive Force And False Arrest Complaint Against The Caucasian Sheriffs.

Note: LOCATION OF EXHIBIT - District Court Docket 1 – Exhibit P1 P1 & (Ninth Circuit Excerpt Of Record V1 – Page 71)

County Of Los Angeles Sheriff's Department Headquarters 4700 Ramona Boulevard Monterey Park California 91754-2169 Leroy D Baca Sheriff

February 5th 1999

Ms. Angela Bernhardt

P.O. Box 480509 Los Angeles California 90048

Dear Ms. Bernhardt

On Dec 7th 1998, you filed a complaint regarding the actions of Sheriff's Department personnel who are assigned to Court Services West Bureau, Santa Monica Branch. In your complaint, you allege that on Oct 6th 1998, an unidentified Caucasian male bailiff at the Santa Monica Branch kicked your legs from underneath you and forced you to the floor of the courtroom. You further allege that the unidentified bailiff was then joined by two other Caucasian male deputies who struck your body with their fists approximately twenty times before they took you into custody. I instructed Court Services west bureau captain Irene McReynolds to investigate your complaint, since the personnel involved are assigned to her command. Captain

APPENDIX D

County Of Los Angeles Sheriff Leroy D Baca's Letter To Angela Bernhardt Regarding The County Of Los Angeles Sheriff's Investigation Of Alleged Assault And Battery Of Her, Excessive Force And False Arrest Complaint Against The County Of Los Angeles Sheriffs.

Sheriff's Letter is Attached To Original Complaint
[Note: LOCATION OF EXHIBIT - District Court Docket 1 – Exhibit P1 & [Ninth Circuit Excerpt Of Record V1 – Page 71]

McReynolds has completed her investigation and I have reviewed the results. Our investigation revealed that on Oct 6th 1998, you appeared before Judge Rubin in Department R of the Santa Monica Superior Court as the plaintiff in a Small Claims matter. After the judge rendered a decision that was not favorable to you, it became necessary for the bailiff, Deputy Terry January to stop you after you ignored his verbal instructions to halt your approach to the judge Our investigation also revealed that when Deputy January positioned himself in a manner that created a physical barrier between you and the judge, you tried to push your way past him. Your action created the need for Deputy January to physically restrain you. Your refusal to obey Deputy January's instructions, your physical efforts to circumvent his attempts to stop your advance and your physical resistance of his efforts to restrain you made it necessary for him to use the amount of force reasonably necessary to detain you.

A Tradition of Service

Page 2

Ms. Angela Bernhardt February 5th 1999

APPENDIX D

County Of Los Angeles Sheriff Leroy D Baca's Letter To Angela Bernhardt Regarding Sheriff's Investigation Of Her Alleged Assault And Battery -Excessive Force And False Arrest Complaint Against The County Of Los Angeles Sheriffs.

Note: Location oF Exhibit - Original Complaint - District Court Docket 1- Exhibit P2). (Ninth Circuit Excerpt Of Record V1 – Page 72)

Although our investigation revealed that you were taken to the ground by Deputy January during his effort to restrain you, there is no evidence to support your allegation that you were struck or punched during this incident. Finally, our investigation revealed no evidence to corroborate your allegation that three Caucasian male sheriffs deputies were involved in the effort to detain you. It should be noted that both Deputy January and the Santa Monica police officer who assisted Deputy January are of African – American descent. In essence, our investigation revealed no evidence to substantiate your allegation of misconduct against the Sheriff's personnel who detained you. In light of these factors, it appears that your complaint does not warrant further action at this time.

I appreciate your having brought this matter to my attention. Ensuring the proper performance of Sheriff's Department personnel is my top priority and I welcome the opportunity to evaluate their conduct.

The Sheriff's department is concerned about public confidence in its investigation of public complaints. ... [omitted] Sincerely, Lee Baca Leroy D Baca Sheriff [emphasis added]

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, &
COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

APPENDIX E
FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

APPENDIX E

FILED 5th Oct, 2001

ORDER DENYING APPELLANT'S PETITION FOR PANEL REHEARING AND PETITION FOR REHEARING EN BANC

UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

ANGELA BERNHARDT,
Plaintiff-Appellant,
v.
SANTA MONICA COLLEGE, a public entity; et al.,
Defendants-Appellees.

Nos. 00-55996, 00-55530

PRIOR HISTORY -D.C. #. CV-99-2598-JSL.
J. Spencer Letts, District Judge, Presiding. :

Appeals from the United States District Court for the Central District of California.

Before: O'SCANNLAIN, SILVERMAN, and GOULD, Circuit Judges.

The panel has voted to deny appellant's petition for panel rehearing and petition for rehearing en banc.

The full court has been advised of the petition for rehearing en banc and no judge has requested a vote on whether to hear the matter en banc. See Fed. R. App. P.35. The petition for panel rehearing and the petition for rehearing en banc are denied.

No further filings shall be accepted in this closed appeal.

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, &
COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

APPENDIX G
FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

APPENDIX G

28 UNITED STATES CODE § 1738. STATE AND TERRITORIAL STATUTES AND JUDICIAL PROCEEDINGS; FULL FAITH AND CREDIT The Acts of the legislature of any State, Territory, or Possession of the United States, or copies thereof, shall be authenticated by affixing the seal of such State, Territory or Possession thereto. The records and judicial proceedings of any court of any such State, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that the said attestation is in proper form.

Such Acts, records and judicial proceedings or copies thereof, so authenticated, shall have the same full faith and credit in every court within the United States and its Territories and Possessions as they have by law or usage in the courts of such State, Territory or Possession from which they are taken.

42 U.S.C., § 1983 CIVIL ACTION FOR DEPRIVATION OF RIGHTS

Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. {omitted]

APPENDIX G
42 UNITED STATES CODE § 1983 (2)
OBSTRUCTING JUSTICE; INTIMIDATING PARTY, WITNESS, OR JUROR If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any court of the United States from attending such court, or from testifying to any matter pending therein, freely, fully, and truthfully, or to injure such party or witness in his person or property on account of his having so attended or testified, or to influence the verdict, presentment, or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment, or indictment lawfully assented to by him, or of his being or having been such juror; or if two or more persons conspire for the purposeof impeding, hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny to any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right of any person, or class of persons, to the equal protection of the laws;

42 U.S.C., § 1985(3) (3) DEPRIVING PERSONS OF RIGHTS OR PRIVILEGES If two or more persons in any State or Territory conspire or go in disguise on the highway or on the premises of another, for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws; or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the laws; or if two or more persons conspire to prevent by force, intimidation, or threat, any citizen who is lawfully entitled to vote, from giving his support or advocacy in a legal manner, toward or in favor of the election of any

APPENDIX G

42 U.S.C., § 1985(3) (cont) lawfully qualified person as an elector for President or Vice President, or as a Member of Congress of the United States; or to injure any citizen in person or property on account of such support or advocacy; in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages occasioned by such injury or deprivation, against any one or more of the conspirators.

Title IX Of The Education Amendments Of 1972, 86 Stat. 373, As Amended, 20 U.S.C. 1681 Et Seq
(a) Prohibition against discrimination; exceptions
No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance

42 Usc §. 2000d. Prohibition Against Exclusion From Participation In, Denial Of Benefits Of, And Discrimination Under Federally Assisted Programs On Ground Of Race, Color ,Or National Origin No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 718 Of The Education Amendments Of 1972, which authorized federal courts to award attorney's fees in private actions against public education agencies "explicitly presumes the availability of private suits to enforce Title VI in the education context

APPENDIX G

TITLE VI OF THE CIVIL RIGHTS ACT OF 1964. SECTION 601 of that Title prohibits discrimination based on race, color, or national origin in covered programs and activities.

Section 602 authorizes federal agencies to effectuate 601 by issuing regulations, and the Department of Justice (DOJ) in an exercise of this authority promulgated a regulation forbidding funding recipients to utilize criteria or administrative methods having the effect of subjecting individuals to discrimination based on the prohibited grounds.

42 USC § SEC. 2000D-7. CIVIL RIGHTS REMEDIES EQUALIZATION

(a) General provision

(1) A State shall not be immune under the Eleventh Amendment of the Constitution of the United States from suit in Federal court for a violation of [omitted], title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), [omitted], title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or the provisions of any other Federal statute prohibiting discrimination by recipients of Federal financial assistance.

(2) In a suit against a State for a violation of a statute referred to in paragraph

(1), remedies (including remedies both at law and in equity) are available forsuch a violation to the same extent as such remedies are available for such a violation in the suit against any public or private entity other than a State.

(b) Effective date

The provisions of subsection (a) of this section shall take effect with respect to violations that occur in whole or in part after October 21, 1986.

APPENDIX G

42 USC § 1988. (b) Attorney's fees

In any action or proceeding to enforce a provision of sections 1981, 1981a, 1982, 1983, 1985, and 1986 of this title, title IX of Public Law 92-318 (20 U.S.C. 1681 et seq.), (OMITTED), title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), or section13981 of this title,, (FOOTNOTE 1) the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity such officer shall not be held liable for any costs, including attorney's fees, unless such action was clearly in excess of such officer's jurisdiction.

FOURTEENTH AMENDMENT

Section 1. All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Section. 5. The Congress shall have power to enforce, by appropriate legislation, the provisions of this article.

FOURTH AMENDMENT -Search and Seizure

The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no Warrants shall issue, but upon probable cause, supported by Oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

APPENDIX G - TORTS -DEFINITIONS

SEXUAL ASSAULT

Sexual contact.that is forced upon a person without consent or inflicted upon a person who is incapable of giving consent (as because of age or physical or mental incapacity) or who places the assailant (as a doctor) in a position of trust

SEXUAL BATTERY

Intentional and offensive sexual contact and esp. sexual intercourse with a person who has not given or (as in the case of a child) is incapable of giving consent Broadly: forced or coerced contact with the sexual parts of either the victim or the perpetrator

INDECENT ASSAULT

Intentional offensive sexual contact that does not amount to sexual intercourse or involve penetration and that is committed without consent of the victim and without the intent to commit rape

ASSAULT

Old French assaut, literally, attack, ultimately from Latin assultus, from assilire to leap (on), attack1: the crime or tort of threatening or attempting to inflict immediate offensive physical contact or bodily harm that one has the present ability to inflict and that puts the victim in fear of such harm or contact

BATTERY

Old French batterie beating, from battre to beat, from Latin battuere The crime or tort of intentionally or recklessly causing offensive physical contact or bodily harm (as by striking or by administering a poison or drug) that is not consented to by the victim

APPENDIX G - TORTS -DEFINITIONS

FALSE IMPRISONMENT

The tort of intentionally restraining another by physical force or the threat of physical force without privilege or authority

INFLICTION OF EMOTIONAL DISTRESS

The tort of intentionally or negligently causing emotional distress (called also infliction of mental distress)

EMOTIONAL DISTRESS

A highly unpleasant emotional reaction (as anguish, humiliation, or fury) which results from another's conduct and for which damages may be sought (called also emotional harm, mental anguish, mental distress, mental disturbance, mental suffering) (see also outrage zone of danger) Note: Damages may be recoverable for emotional distress that is caused intentionally or negligently. Recovery for negligent infliction of emotional distress often requires that the plaintiff suffer a physical injury as well.

FALSE ARREST

An arrest made without legal authority

DEFAMATION

1: communication to third parties of false statements about a person that injure the reputation of or deter others from associating with that person

APPENDIX G - TORTS DEFINITIONS

HOSTILE ENVIRONMENT HARASSMENT

Employment or [educational setting] discrimination consisting of unwelcome verbal or physical conduct (as comments, jokes, or acts) relating to the victim's constitutionally or statutorily protected classification (as race, religion, ethnic origin, or age) that has the effect of substantially interfering with a person's work performance or of creating a hostile work environment

HOSTILE ENVIRONMENT SEXUAL HARASSMENT

Sexual harassment that has the effect of unreasonably interfering with a victim's work performance or creating an intimidating, hostile, or offensive [educational] or working environment that affects the victim's psychological well-being (called also hostile environment harassment)

SEXUAL HARASSMENT

Employment or [educational setting] discrimination consisting of unwelcome verbal or physical conduct directed at an employee or [student] because of his or her sex

MISREPRESENTATION

An intentionally or sometimes negligently false representation made verbally, by conduct, or sometimes by nondisclosure or concealment and often for the purpose of deceiving, defrauding, or causing another to rely on it detrimentally

APPENDIX G - TORTS DEFINITIONS

OBSTRUCTION OF JUSTICE
The crime or act of willfully interfering with the process of justice and law esp. by influencing, threatening, harming, or impeding a witness, potentialwitness, juror, or judicial or legal officer or by furnishing false information in or otherwise impeding an investigation or legal process

ABUSE OF PROCESS "Restatement (Second) of Torts § 682 'The essential elements of abuse of process, are - an ulterior purpose, and second, a wilful act in the use of process not proper in the regular conduct of the proceeding. . . . The improper purpose usually takes the form of coercion to obtain a collateral advantage, not properly involved in the proceeding itself, such as the surrender of property or the payment of money, by the use of the process as a threat or a club. There is, in other words, a form of extortion, and it is what is done in the course of negotiation, rather than the issuance of any formal use of the process itself, which constitutes the tort.' (. Prosser on Torts, (2d ed.) p. 667.)

DEFAULT JUDGMENT - DEFINITION
Restatement Of Judgments Second 27e "In the case of a judgment entered by by confession, consent or default, none of the issues is actually litigated.
Restatement Of Judgments 2nd # 27 comment e) Issues Not Actually Litigated If preclusive effect were given to issues not litigated, the result might serve to discourage compromise, ... and ... intensify litigation. In the case of a judgment entered by confession, consent or default, none of the issues are actually litigated. Therefore the rule of this Section # 27 does not apply with respect to any issue in a subsequent action.

APPENDIX G

DEFAULT JUDGMENT DEFINITION A judgment entered by a court after an entry of default against a party for failure to appear, to file a pleading, or to take other required procedural steps (called also judgment by default)

RESTATEMENTS OF JUDGMENTS SECOND # 20 JUDGMENT FOR DEFENDANT - EXCEPTIONS TO THE GENERAL RULE OF BAR

(1) A personal judgment for the defendant, although valid and final, does not bar another action by the plaintiff of the same claim when: (b) When...the court directs ...(..that the action be otherwise dismissed) without prejudice; or(c) When by statute or rule of court the judgment does not operate as a bar to another action on the same claim,

(2) A valid and final judgment for the defendant which rests...on the plaintiff's failure to satisfy a precondition to suit, does not bar another action by the plaintiff instituted after...the precondition has been satisfied, unless a second action is precluded by operation of the substantive law.

Comment K Rational For Subsection (2) A determination by the court that the plaintiff has no enforceable claim because ...she has failed to satisfy a precondition to suit, is not a determination that she may not have an enforceable claim thereafter, and does not normally preclude her from maintaining an action when the claim has become enforceable. The rule stated in this subsection is applicable whether the fact ...that a precondition has not been satisfied appears on the face of the pleadings.

APPENDIX G -FEDERAL RULES OF CIVIL PROCEDURE

FRCP 4 d) Waiver of Service; Duty to Save Costs of Service; Request to Waive.

(2) An individual, corporation, or association that is subject to service under subdivision (e) , (f) , or (h) and that receives notice of an action in the manner provided in this paragraph has a duty to avoid unnecessary costs of serving the summons. To avoid costs, the plaintiff may notify such a defendant of the commencement of the action and request that the defendant waive service of a summons. The notice and request

(A) shall be in writing and shall be addressed directly to the defendant, (omitted)

(B) shall be dispatched through first-class mail or other reliable means;

(C) shall be accompanied by a copy of the complaint and shall identify the court in which it has been filed;

(D) shall inform the defendant, by means of a text prescribed in an official form promulgated pursuant to Rule 84 , of the consequences of compliance and of a failure to comply with the request;

(E) shall set forth the date on which request is sent;

(F) shall allow the defendant a reasonable time to return the waiver, which shall be at least 30 days from the date on which the request is sent, [omitted] and(G) shall provide the defendant with an extra copy of

the notice and request, as well as a prepaid means of compliance in writing.

If a defendant located within the United States fails to comply with a request for waiver made by a plaintiff located within the United States, the court shall impose the costs subsequently incurred in effecting service on the defendant unless good cause for the failure be shown.

FRCP 4(m) Time Limit for Service.

If service of the summons and complaint is not made upon a defendant within 120 days after the filing of the complaint, the court, upon motion or on its own initiative after notice to the plaintiff, shall dismiss the action without prejudice as to that defendant or direct that service be effected within a specified time; provided that if the plaintiff shows good cause for the failure, the court shall extend the time for service for an appropriate period.

FRCP 8. General Rules of Pleading
8(e) Pleading to be Concise and Direct; Consistency

(2) A party may set forth two or more statements of a claim or defense alternately or hypothetically, either in one count or defense or in separate counts or defenses. When two or more statements are made in the alternative and one of them if made independently would be sufficient, the pleading is not made insufficient by the insufficiency of one or more of the alternative statements. A party may also state as many separate claims or defenses as the party has regardless of consistency and whether based on legal, equitable,

APPENDIX G -FEDERAL RULES OF CIVIL PROCEDURE

or maritime grounds. All statements shall be made subject to the obligations set forth in Rule 11.

FRCP 8 (f) Construction of Pleadings All pleadings shall be so construed as to do substantial justice.

FEDERAL RULE OF CIVIL PROCEDURE 11

FRCP 11 (b) Representations to Court.

By presenting to the court (whether by signing, filing, submitting, or later advocating) a pleading, written motion, or other paper, an attorney or unrepresented party is certifying that to the best of

FRCP 11 (continued) the person's knowledge, information, and belief, formed after an inquiry reasonable under the circumstances, it is not being presented for any improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation;

(2) the claims, defenses, and other legal contentions therein are warranted by existing law or by a non frivolous argument for the extension, modification, or reversal of existing law or the establishment of new law;

(3) the allegations and other factual contentions have evidentiary support or, if specifically so identified, are likely to have evidentiary support after a reasonable opportunity for further investigation or discovery; and

APPENDIX G -FEDERAL RULES OF CIVIL PROCEDURE

(4) the denials of factual contentions are warranted on the evidence or, if specifically so identified, are reasonably based on a lack of information or belief.

FRCP 11 (c) Sanctions.If, after notice and a reasonable opportunity to respond, the court determines that subdivision (b) has been violated, the court may, subject to the conditions stated below, impose an appropriate sanction upon the attorneys, law firms, or parties that have violated subdivision (b) or are responsible for the violation.

(1) How Initiated.
FRCP 11 (B) On Court's Initiative. On its own initiative, the court may enter an order describing the specific conduct that appears to violate subdivision *(b) and directing an* attorney, law firm, or party to show cause why it has not violated subdivision (b) with respect thereto.

(2) Nature of Sanction; Limitations. A sanction imposed for violation of this rule shall be limited to what is sufficient to deter repetition of such conduct or comparable conduct by others similarly situated.
FRCP 11 (3) Order. When imposing sanctions, the court shall
describe the conduct determined to constitute a violation of this rule and explain the basis for the sanction imposed.

FEDERAL RULE OF CIVIL PROCEDURE 12 (B)
(b) How Presented.
Every defense, in law or fact, to a claim for relief in any pleading, whether a claim, counterclaim, cross-claim, or third-party claim, shall be asserted in the responsive
APPENDIX G -FEDERAL RULES OF CIVIL PROCEDURE

pleading thereto if one is required, except that the following defenses may at the option
of the pleader be made by motion:
(1) lack of jurisdiction over the subject matter,

(2) lack of jurisdiction over the person,

(3) improper venue,

(4) insufficiency of process,

(5) insufficiency of service of process,

(6) failure to state a claim upon which
relief can be granted,

(7) failure to join a party under Rule 19 . A motion making any of these defenses shall be made before pleading if a further pleading is permitted. No defense or objection is waived by being joined with one or more other defenses or objections in a responsive pleading or motion. If a pleading sets forth a claim for relief to which the adverse party is not required to serve a responsive pleading, the adverse party may assert at the trial any defense in
law or fact to that claim for relief. If, on a motion asserting the defense numbered (6) to dismiss for failure of the pleading to state a claim upon which relief can be granted, matters outside the pleading are presented to and not excluded by the court, the
motion shall be treated as one for summary judgment and disposed of as provided in Rule 56 , and all parties shall be given reasonable opportunity to present all material made pertinent to such a motion
by Rule 56 .
APPENDIX G -FEDERAL RULES OF CIVIL PROCEDURE

FRCP 12 (e) If a pleading to which a responsive pleading is permitted is so vague or ambiguous that a party cannot reasonably be required to frame a responsive pleading, the party may move for a more definite statement before interposing a responsive pleading. The motion shall point out the defects complained of and the details desired. If the motion is granted and the order of the court is not obeyed within 10 days after notice of the order or within such other time as the court may fix, the court may strike the pleading to which the motion was directed or make such order as it deems just.

FRCP 12(g) Consolidation of Defenses in Motion.
A party who makes a motion under this rule may join with it any other motions herein provided for and then available to the party. If a party makes a motion under this rule but omits there from any defense or objection then available to the party which this rule permits to be raised by motion, the party shall not thereafter make a motion based on the defense or objection so omitted, except a motion as provided in subdivision (h)(2) hereof on any of the grounds there stated.

FRCP 12 (h) Waiver or Preservation of Certain Defense
(1) A defense of lack of jurisdiction over the person, improper venue, insufficiency of process, or insufficiency of service of process is waived (A) if omitted from a motion in the circumstances described in subdivision (g), or (B) if it is neither made by motion under this rule nor included in a responsive pleading or an amendment thereof permitted by Rule 15(a) to be made as a matter of course.

APPENDIX G -FEDERAL RULES OF CIVIL PROCEDURE
(2) A defense of failure to state a claim upon which relief can be granted, a defense of failure to join a party indispensable under Rule 19 , and an objection of failure to state a legal defense to a claim may be made in any

pleading permitted or ordered under Rule 7(a) , or by motion for judgment on the pleadings, or
at the trial on the merits.

Rule 15. Amended and Supplemental Pleadings
(a) Amendments.

A party may amend the party's pleading once as a matter of course at any time before a responsive pleading is served or, if the pleading is one to which no responsive pleading is permitted and the action has not been placed upon the trial calendar, the party may so amend it at any time within 20 days after it is served. Otherwise a party may amend the party's pleading only by leave of court or by written consent of the adverse party; and leave shall be freely given when justice so requires. A party shall plead in
response to an amended pleading within the time remaining for response to the original pleading or within 10 days after service of the amended pleading, whichever period may be the longer, unless the court otherwise orders.

FRCP 15 d) Supplemental Pleadings.
Upon motion of a party the court may, upon reasonable notice and upon such terms as are just, permit the party to serve a supplemental pleading setting forth transactions or occurrences or events which have happened since the date of the pleading sought to be supplemented. Permission may be granted even though the original pleading is defective in its statement of a

APPENDIX G
claim for relief or defense. If the court deems it advisable that the adverse party plead to the supplemental pleading, it shall so order, specifying the time therefor.

Federal Rule Of Civil Procedure 16. Pretrial Conferences; Scheduling; Management
(a) Pretrial Conferences; Objectives.
In any action, the court may in its discretion direct the attorneys for the parties and any unrepresented parties to appear before it for a conference or conferences before trial (omitted)

(b) Scheduling and Planning.
Except in categories of actions exempted by district court rule as inappropriate, the district judge, or a magistrate judge when authorized by district court rule, shall, after receiving the report
APPENDIX G- FEDERAL RULES OF CIVIL PROCEDURE 16 (cont) from the parties under Rule 26(f) or after consulting with the attorneys for the parties and any unrepresented parties by a scheduling conference, telephone, mail, or other suitable means, enter a scheduling order that limits the time
(1) to join other parties and to amend the pleadings;
(2) to file motions; and
(3) to complete discovery.
(omitted)
The order shall issue as soon as practicable but in any event within 90 days after the appearance of a defendant and within 120 days after the complaint has been served on a defendant. A schedule shall not be modified except upon a showing of good cause and by leave of the district judge or, when authorized by local rule, by a magistrate judge.

APPENDIX G
Local Rules District Court -Central District Of California
RULE 7. (7-7) MOTIONS AND EX PARTE APPLICATIONS

7.1 (7-7.1) APPLICABILITY - The provisions of this rule shall apply to motions, applications, petitions, orders to show cause, and all other proceedings except a trial on the merits (all such being included within the term "motion" as used herein) unless otherwise ordered by the Court or provided by statute, the
F.R.Civ.P., or the Local Rules.

7.3.2 (6-7.3.2) ENLARGEMENT OF TIME - The time within which any document or paper is required to be filed pursuant to this rule may be enlarged by order of Court before or after the expiration of the time provided unless contrary to statute or the F.R.Civ.P.

7.3.3 (6-7.3.3) SANCTIONS FOR LATE FILING - A party filing any document in support of, or in opposition to, any motion noticed for hearing as above provided after the time for filing the same shall have expired, shall be subject to the sanctions of Local Rule 27 and the F.R.Civ.P. Additionally, the Court may strike the filing of any such late document and disregard it for all purposes.

APPENDIX G - LOCAL RULES -DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA

7.6 (7-7.6) OPPOSING PAPERS - Each opposing party shall, not later than ten (10) days after service of the motion in the instance of a new trial motion and not later than fourteen (14) days before the date designated for the hearing of the motion in all other instances, serve upon all other parties and file with the Clerk either (a) the evidence upon which the opposing party will rely in opposition to the motion and a brief but complete memorandum which shall contain a statement of all the reasons in opposition thereto and the points and authorities upon which the opposing party will rely, or (b) a written statement that he will not oppose the motion. Evidence presented in all opposing papers shall comply with the requirements of Local Rules 7.5.2, 7.5.3 and 7.5.4.

7.8 (7-7.8) CONTINUANCE OF HEARING DATE - Unless the order for continuance shall specify otherwise, the entry of an order continuing the hearing of a motion automatically extends the time for filing and serving opposing papers and reply papers to fourteen (14) days and seven (7) days, respectively, preceding the new hearing date. The stipulation shall provide the date the opposition and reply papers are due to be filedwith the court.

7.9 (7-7.9) FAILURE TO FILE REQUIRED PAPERS – Papers not timely filed by a party including any memoranda or other papers required to be filed under this rule will not be considered and may be deemed by the Court consent to the granting or denial of the motion, as the case may be.

APPENDIX G
CENTRAL DISTRICT OF CALIFORNIA U.S.D.C.-
LOCAL RULE 27A. (83-27A) VEXATIOUS LITIGANTS

27A.1 (83-27A.1) POLICY - It is the policy of the Court to discourage vexatious litigation and to provide persons who are subjected to vexatious litigation with security against the costs of
defending against such litigation and appropriate

-DISTRICT COURT LOCAL RULES
CENTRAL DISTRICT OF CALIFORNIA U.S.D.C.-
LOCAL RULE 27A. (83-27A) orders to control such litigation. It is the intent of this rule to augment the inherent power of the Court to control vexatious litigation and nothing in this rule shall be construed to limit the Court's inherent power in that regard.

27A.2 (83-27A.2) ORDERS FOR SECURITY AND CONTROL – On its own motion or on motion of a party, after opportunity to be heard, the Court may, at any time, order a party to give security in such amount as the Court determines to be appropriate to secure the payment of any costs, sanctions or other amounts which may be awarded against a vexatious litigant, and may make such other orders as are appropriate to control the conduct of a vexatious litigant. Such orders may include, without limitation, a directive to the Clerk not to accept further filings from the litigant without payment of normal filing fees and/or without written authorization from a judge of the Court or a Magistrate Judge, issued upon such showing of the evidence supporting the claim as the judge may require.

APPENDIX G

27A.3 (83-27A.3) FINDINGS - Any order issued under Rule 27A.2 shall be based on a finding that the litigant to whom the order is issued has abused the Court's process and is likely to continue such abuse, unless protective measures are taken.

27A.4 (83-27A.4) REFERENCE TO STATE STATUTE – Although nothing in this rule shall be construed to require that such a procedure be followed, the Court may, at its discretion, proceed by reference to the Vexatious Litigants statute of the State of California, Cal. Code Civ. Proc. §§ 391 - 391.7.

Central District of California U.S.D.C.

CALIFORNIA CODE OF CIVIL PROCEDURE 415.30.

(a) A summons may be served by mail as provided in this section. A copy of the summons and of the complaint shall be mailed (by first-class mail or airmail, postage prepaid) to the person to be served, together with two copies of the notice and acknowledgment provided for in subdivision (b) and a return envelope, postage prepaid, addressed to the sender.

(b) The notice specified in subdivision (a) shall be in substantially the following form: (Omitted)

APPENDIX G
CALIFORNIA CIVIL CODE OF CIVIL PROCEDURE
SECTION 116.210 -JURISDICTION OF THE SMALL CLAIMS COURT

116.210. In each municipal court and each superior court in a county in which there is no municipal court, there shall be a small claims division. The small claims division may be known as the small claims court.

116.220. (a) The small claims court shall have jurisdiction in the following actions:

(1) Except as provided in subdivisions (c), (e), and (f), for recovery of money, if the amount of the demand does not exceed five thousand dollars ($5,000).

(2) Except as provided in subdivisions (c), (e),and (f), to enforce payment of delinquent unsecured personal property taxes in an amount not to exceed five thousand dollars ($5,000), if the legality
of the tax is not contested by the defendant.

(3) To issue the writ of possession authorized by Sections 1861.5 and 1861.10 of the Civil Code if the amount of the demand does not exceed five thousand dollars ($5,000).

4) To confirm, correct, or vacate a fee arbitration award not exceeding five thousand dollars ($5,000) between an attorney and client that is binding or has become binding, or to conduct a hearing de novo between an attorney and client after non binding arbitration of a fee dispute involving no more than five thousand dollars ($5,000) in controversy, pursuant
to Article 13 (commencing with Section 6200) of Chapter 4 ofDivision 3 of the Business and Professions Code.

(b) In any action seeking relief authorized by subdivision (a), the court may grant equitable relief in the form of rescission,restitution, reformation, and specific

APPENDIX G
CALIFORNIA CIVIL CODE OF CIVIL PROCEDURE
SECTION 116.220 JURISDICTION OF CALIFORNIA
SMALL CLAIMS COURT

performance, in lieu of, or in addition to, money damages. The court may issue a conditional judgment. The court shall retain jurisdiction until full payment and performance of any judgment or order.

(c) Notwithstanding subdivision (a), the small claims court shall have jurisdiction over a defendant guarantor who is required to respond based upon the default, actions, or omissions of another, only if the demand does not exceed (1) two thousand five hundred dollars ($2,500), or (2) on and after January 1, 2000, four thousand dollars ($4,000), if the defendant guarantor charges a fee for its guarantor or surety services or the defendant guarantor is the Registrar of the Contractors' State License Board.

(d) In any case in which the lack of jurisdiction is due solely to an excess in the amount of the demand, the excess may be waived, but any waiver shall not become operative until judgment.

(e) Notwithstanding subdivision (a), in any action filed by a plaintiff incarcerated in a Department of Corrections facility or a Youth Authority facility, the small claims court shall have jurisdiction over a defendant only if the plaintiff has alleged in the complaint that he or she has exhausted his or her administrative remedies against that department, including compliance with Sections 905.2 and 905.4 of the Government Code. The final administrative adjudication or determination of the plaintiff's administrative claim by the department may be attached to the complaint at the time of filing in lieu of that allegation.

APPENDIX G -CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 116.220

(f) In any action governed by subdivision (e), if the plaintiff fails to provide proof of compliance with the requirements of subdivision (e) at the time of trial, the **judicial officer shall**, at **his** or her **discretion, either dismiss the action or continue the action to give the plaintiff an opportunity to provide such proof.**

(g) For purposes of this section, "department" includes an employee of a department against whom a claim has been filed under this chapter arising out of his or her duties as an employee of that department.

CALIFORNIA CODE OF CIVIL PROCEDURE SECTION 116.710. (a)

The plaintiff in a small claims action shall have no right to appeal the judgment on the plaintiff's claim but a plaintiff who did not appear at the hearing may file a motion to vacate the judgment in accordance with Section 116.720.

(b) The defendant with respect to the plaintiff's claim, and a plaintiff with respect to a claim of the defendant, may appeal the judgment to the superior court in the county in which the action was heard.

CALFORNIA GOVERNMENT CODE 911.2. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than one year after the accrual of the cause of action.

APPENDIX G
CALIFORNIA GOVERNMENT CODE CLAIM REQUIREMENT California Government Code 911.3. (a) When a claim that is required by Section 911.2 to be presented not later than six months after accrual of the cause of action is presented after such time without the application provided in Section 911.4, the board or other person designated by it may, at any time within 45 days after the claim is presented, give written notice to the person presenting the claim that the claim was not filed timely and that it is being returned without further action. The notice shall be in substantially the following form: "The claim you presented to the (insert title of board or officer) on (indicate date) is being returned because it was not presented within six months after the event or occurrence as required by law.
- See Sections 901 and 911.2 of the Government Code. Because the claim was not presented within the time allowed by law, no action was taken on the claim. Your only recourse at this time is to apply without delay to (name of public entity) for leave to present a late claim. See Sections 911.4 to 912.2, inclusive, & Section 946.6 of the Government Code. Under some circumstances, leave to present a late claim will be granted. See Section 911.6 of the Government Code. You may seek the advice of an attorney of your choice in connection with this matter. If you desire to consult an attorney, do so immediately."

California Government Code 911.3. (b) Any defense as to the time limit for presenting a claim described in subdivision (a) is waived by failure to give the notice set forth in subdivision (a) within 45 days after the claim is presented, except that no notice need be given and no waiver shall result when the claim as presented fails to state either an address to which the person presenting the claim desires notices to be sent or an address of the claimant.

APPENDIX G
CALIFORNIA GOVERNMENT CODE CLAIM REQUIREMENT

California Government Code 911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within that time, a written application may be made to the public entity for leave to present that claim.California Government Code 911.4 (b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) within a reasonable time not to exceed one year after the accrual of the cause of action and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application.911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period. (b) The board shall grant the application where one or more of the following is applicable:(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

APPENDIX G
Article. IV. Section 1. . Interstate Relations and the Official Acts of States

Full Faith and Credit shall be given in each State to the public Acts, Records, and judicial Proceedings of every other State. And the Congress may by general Laws prescribe the Manner in which such Acts, Records and Proceedings shall be proved, and the Effect thereof.

Article. IV. Section 2. Clause 1 Interstate Relations and The Rights of Citizens

The Citizens of each State shall be entitled to all Privileges and Immunities of Citizens in the several States

The Constitution of the United States of America
Article. VI. . Clause 2 General Provisions: The Supreme Law

This Constitution, and the Laws of the United States which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary not withstanding.

Supreme Court, U.S.
FILED
JAN 02 2002
OFFICE OF THE CLERK

(2)

0 1 1 2 5 4 Feb

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, & COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

PETITION FOR A WRIT OF CERTIORARI VOLUME II (CONTINUATION OF APPENDIX)

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

17898

No.

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, & COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

APPENDIX F FOR PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

APPENDIX F

RECEIVED 6TH JULY 1999
DOCUMENT NOTICE OF DOCUMENT DISCREPANCIES
FIRST AMENDED COMPLAINT

DOCUMENT ENTITLED 1ST AMENDED COMPLAINT

To US DISTRICT JUDGE LETTS
FROM DEPUTY CLERK RECEIVED DATE 7.6.99
UNITED STATES DISTRICT COURT CENTRAL DISTRICT OF CALIFORNIA
CASE NO CV-99-2598-JSL

CASE TITLE BERNHARDT VS SANTA MONICA COLLEGE ET AL

Upon the submission of the attached document(s), it was noted that the following discrepancies exist:

OTHER: **ORDERS BY JUDGE LETTS DATED 6.29.99 INDICATE PLAINTIFF CANNOT FILE FIRST AMENDED COMPLAINT**.

PLAINTIFF INSISTED ON SUBMITTING DOCUMENTS.
CV-104A (4/98)

District Court Docket - Just Before 40
Ninth Circuit Excerpt Of Record Volume 2 Page 165.

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PAGE 1

FIRST AMENDED COMPLAINT

FILED JULY 6TH 1999

Angela Bernhardt
P.O.Box 480509 Los Angeles, CA 90048
Phone (310) 281 3092 Plaintiff In Pro-Per

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

ANGELA BERNHARDT Plaintiff vs SANTA MONICA COLLEGE , a public entity, SANTA MONICA COLLEGE COMMUNITY DISTRICT, a public entity. SANTA MONICA COLLEGE BOARD OF TRUSTEES, a public entity.SANTA MONICA COLLEGE POLICE DEPT., a public entity. R.L.JONES, in his individual and official capacity. RON MARABLE in his individual and official capacity. EILEEN MILLER, in her individual and official capacity. PIEDAD ROBERTSON, in her individual and official capacity. ROBERT SAMMIS, in his individual and official capacity. JO ANN R FIELDER in her individual and official capacity. BRENDA SIMMONS, in her individual and official capacity. HERB RONEY, in his individual and official capacity. DOROTHY EHRHART MORRISON, in her individual and official capacity. NANCY CATTELL, in her individual and official capacity. CAROL L CURRY, in her individual and official capacity. ILLONA JO KATZ, in her individual and official capacity. PATRICK NICHELSON, in his individual and official capacity ANNETTE SHAMEY, in her individual and official capacity, STATE OF CALIFORNIA, a public entity. COUNTY OF LOS ANGELES, a public entity.COUNTY OFLOS ANGELES SHERIFFS

DEPT.,a public entity, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, a public entity. LAURENCE D. RUBIN, in his individual & official capacity. 1-10 CAUCASIAN MALE SHERIFF DEPUTY DOES & 1-2 AFRICAN AMERICAN FEMALE SHERIFF DEPUTY DOES, OF JUDGE LAURENCE D. RUBIN'S COURT ROOM R & COUNTY OF LOS ANGELES SHERIFF'S DEPT in their individual & official capacities. LA COUNTY SHERIFF LEE BACA in his individual & official capacity. SHERIFF SHERMAN MOTEN, SHERIFF TERRY JANUARY in their individual & official capacities. OFFUNE OBIAMIWE in her individual capacity, SHERIFF DEPUTY DOES 1—50 in Individual and official capacity, and DOES 1 through 100. Defendants

CASE NO CV–99-2598-JSL

1ST AMENDED COMPLAINT FOR DAMAGES

1. RESTRAINED SEXUAL ASSAULT/SEXUAL HARASSMENT/BATTERY UNDER 42. U.S.C. 1983, 42 § USCA 13981 INTENTIONAL TORT, AND COMMON LAW;

2. RESTRAINED SEXUAL ASSAULT AND COVER UP OF SEXUAL ASSAULT VIOLATIONS UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AND," 20 U. S. C. §1681(a), 1687, AS AMENDED, 20 U. S. C. §1681 ET SEQ; TITLE VI OF THE CIVIL RIGHTS ACT OF 42 U.S. C § 2000 d ET SEQ, d-1, d-2, d-7;

3 VIOLATION OF CIVIL RIGHTS UNDER UNITED STATES CONSTITUTION 42 USCS §1983, 42 USCS § 1985 (2) (3), 42 USCS §1986, 42 USCS § 1988;

4. MUNICIPAL VIOLATION OF CIVIL RIGHTS;CONSPIRACY TO DEPRIVE PLAINTIFF OF A FAIR AND MEANINGFUL HEARING.

5 DEFAMATION OF CHARACTER;

APPENDIX F

CASE NO CV-99-2598-JSL

1ST AMENDED COMPLAINT FOR DAMAGES

6 INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS;
7 INTENTIONAL MISREPRESENTATION;
8 OBSTRUCTION OF JUSTICE;
9 NEGLIGENCE;
10 MALICIOUS ASSAULT AND BATTERY;
11. EXCESSIVE FORCE; VIOLATIONS UNDER 42 U.S.C. 1983, AND 42 U.S.C. 13981;
12 FALSE ARREST; UNLAWFUL SEARCH;
13 UNLAWFUL DETAINMENT;
14 ABUSE OF PROCESS;
15 SPOLIATION OF EVIDENCE;
16 HARASSMENT;
DEMAND FOR JURY TRIAL

PAGE 2

Plaintiff Angela Bernhardt's, (hereinafter referred "Plaintiff") complaint is against the following defendants:

1. R.L. Jones, Santa Monica College,

2. Santa Monica College Police Department, Police Officer Ron Marable, Eileen Miller.

3. Brenda Simmons, Joanne Fielder; Piedad Robertson, Robert Sammis, Santa Monica College

4. Santa Monica College Board Of Trustees - Herb Roney, Dorothy Ehrhart Morrison, Nancy Cattell, Carol L Currey, Illona Jo Katz, Patrick Nichelson, Annette Shamey. (Hereafter shortened to SMC Board Of Trustees et al)

5. Santa Monica College Community District,

6. County Of Los Angeles,

7. Laurence D. Rubin, Santa Monica Courthouse, County Of Los Angeles

8. Santa Monica Municipal Court, County Of Los Angeles

9. Offune Obiamiwe.

10. Sheriff's Department, County Of Los Angeles

11. 1- 10 unknown Caucasian male Sheriffs Deputy Bailiffs DOES, and 1-2 unknown African American female deputy DOES employed in/or around Judge Laurence Rubin's Courtroom R, County Of Los Angeles, Santa Monica Courthouse on October 6th, 1998.

12. 1-50 unknown Sheriffs deputy DOES employed by County Of Los Angeles Santa Monica Courthouse, and County Of Los Angeles Sheriffs Department .

13. Sheriff Sherman Moten,

14. Los Angeles County Sheriff Lee Baca,

15. Sheriff Deputy Bailiff Terry January (Regular daily Bailiff Of Judge Laurence Rubin's Courtroom R)

16. Unknown Named defendants from 1 – 100 DOES, inclusive.

17. State Of California

Plaintiff alleges as follows.

JURISDICTION AND VENUE

The jurisdiction of this Court is invoked under 28 U.S.C. Section §1331, §1337, §1343, § 1367, & under Title 42 U.S. Code Sections §1983, §1985,§1986, §1988, & under Title IX Of The Educational Amendments Of 1972," 20 U. S. C. §1681(a), 1687, 20 U. S. C. §1681 et seq, & under Title VI Of The Civil Rights Act Of 1964, 42 U.S. C § 2000 d, d-1, d-2, d-7 et seq, 42 § USCA 13981 and the United States Constitution. Plaintiff also invokes this Court's pendant jurisdiction., and common law, wherein

APPENDIX F

Plaintiff seeks to redress deprivations by

1. State Of California, 2. County Of Los Angeles. 3. Laurence D. Rubin. 4. County Of Los Angeles-Santa Monica Municipal Courthouse. 5. Los Angeles County Sheriff's Department . 6. 1-10 unknown Caucasian male Sheriffs Deputy Bailiffs DOES, 1-2 unknown African American female Sheriffs Deputy Bailiffs DOES employed in Judge Laurence Rubin's Courtroom R, County Of Los Angeles, Santa Monica Courthouse on October 6th, 1998. 7. Los Angeles County Sheriff Lee Baca, 8. Sheriff Sherman Moten, 9. Sheriff Deputy Bailiff Terry January. 10. Santa Monica College Board Of Trustees – 11. Herb Roney, 12. Dorothy Ehrhart Morrison, 13. Nancy Cattell, 14. Carol L Currey, 15. Ilona Jo Katz, 16. Patrick Nichelson, 17. Annette Shamey. 18. Santa Monica College Community District, 19. Santa Monica College. 20. Piedad Robertson, 21. Brenda Simmons. 22. Joanne Fielder. 23. Robert Sammis. 24. Santa Monica College Police Department . 25. Eileen Miller. 26. Santa Monica Police Officer Ron Marable,. 27. R.L. Jones. 28. Offune Obiamiwe and 29. 100 unknown Named defendant DOES from 1 – 100, inclusive who are employees and/or agents and/or occupied other relationships with each of the other Named defendants, and at all times herein mentioned acted within the course and scope of said agency and/or employment and/or other relationship and each other defendant has ratified, consented to, and approved the acts of his agents, employees, and representatives and that each actively participated in aided and abetted or assisted one another in the commission of the wrongdoing alleged in this Complaint.

This court has supplemental jurisdiction over those claims asserted under state law by virtue of 28 U.S. Code Sections 1367.

All claims herein are made now - with the claims presentation requirement of the California Tort Claim Act and California Government Code

§910-915.4. All defendants have not appeared in any court before, for any causes of action - apart from defendant Ron Marable who appeared for emotional injury due to obstruction of justice cause of action in Santa Monica County of Los Angeles Court on 6th, October, 1998. And that case **was eventually closed when defendant Ron Marable eventually told the Court that Plaintiff had not met the California Government Code claim requirement, which the Court did not inform her about - beforehand.** But Plaintiff did submit the claim for this case CASE NO CV–99-2598-JSL, and no other case, and this case is a different case, which encompasses Defendant Ron Marable's violations against Plaintiff under 42 USC 1983, 42 USC 1985 (2) (3) Title IX, and tort law., that were not causes of action, and were also never properly litigated on October 6th, 1998, in view of no cross examination allowed.

Res Judicata and collateral estoppel are not at issue as the case should not have been heard on October 6th, 1998 as Police Officer Ron Marable knew that Plaintiff had not met the Government Claim requirement, and it was bad faith on his part that he did not reveal this at the beginning of the hearing, and left it until thirty minutes into the hearing before he said that the (Government) Claim Requirement had not been met, and said, I quote, "And there's no claim" and that is why Judge Laurence Rubin closed the case. Defendant Marable **did not reveal the government claim requirement had not been met at the beginning of the hearing because he along with Santa Monica College never wanted to give Plaintiff a chance to litigate in a courtroom where she had a chance to prevail. And on the surface - there is only one chance for Plaintiffs to prevail in Small Claims Court.**

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Also California Code Of Civil Procedure 116.725 states "nothing in this chapter shall be construed to prevent a Court from correcting a clerical error in a judgment, **or from setting aside and vacating a judgment on the ground of an incorrect or erroneous legal basis for the decision." And in Judge Laurence Rubin's judgment he revealed no rule of law, please see Exhibit N , attached and incorporated by this reference**. Also the judgment was not a final judgment, as the judgment only stated "Plaintiff takes no

money from this claim," Also Judge Laurence Rubin did not dismiss the case with any prejudice And did send a message of apology to the Plaintiff, after he had allowed a hearing with no cross-examination, after he had not wanted to look at her character **references from instructors at Santa monica college, and after having allowed Caucasian Sheriff's deputies into his courtroom who kicked to the floor and who dug their fingernails in her hand, and terrorized the Plaintiff in his courtroom along with defendant Santa Monica College Police Officer Ron Marable, who had lied under oath against Plaintiff!**

A3 (a) is the claim form submitted to the defendants Board Of Trustees Santa Monica College Community District for IX violations in June 1999.

A10 (a) is the claim form submitted to the defendants County Of Los Angeles for monetary damages for deprivation of civil rights under 42 USC 1983, for denying Plaintiff access to the courts via a lawyer because of their settlement policies that very often cut out the Plaintiff's attorney from receiving Statutory Fees under 42 USC 1988 in settlement situations - which depletes the pool of civil rights attorneys willing to take Civil Rights abuse claims - submitted in June 1999.

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Venue is proper in this county because the acts and omissions in this complaint arose in the United States District, Central District of California and therefore venue lies within this District pursuant to 28 U.S.C. Section 1391. Plaintiff Angela Bernhardt is, and at all times during the events alleged in this complaint was a resident of the County Of Los Angeles, in the State of California.

DEFENDANTS

Defendants Santa Monica College, Santa Monica College Police Department Santa Monica Community District, Santa Monica College Board Of Trustees, are Government entities, and/or public or private entities. County Of Los Angeles, Sheriff Department, County Of Los Angeles, County Of Los Angeles - Santa Monica Municipal Courthouse and State Of California, are governmental entities.. Each other Named defendant is a natural person. The true names and capacities, whether individual, corporate, associate, or otherwise of the 1-10 Caucasian Unknown Named Sheriffs Deputy Bailiffs Defendants,

and 1-2 Unknown Named African American female Sheriff's Deputies of Judge Laurence Rubin's Courtroom R, Santa Monica Courthouse, and each of their names, are unknown to Plaintiff, therefore Plaintiff sues all said defendants by such fictitious names and Plaintiff will ask leave to amend this Complaint to state their true identities and capacities when their names have been ascertained from the County Of Los Angeles Sheriff's Department, County Of Los Angeles Sheriff Lee Baca, Laurence D Rubin, Santa Monica Courthouse or County Of Los Angeles. Of the 1-10 Unknown Named Male Caucasian Sheriffs Deputy Bailiffs and 1-2 Unknown Named African American female Sheriff Deputy of Judge

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Laurence D. Rubin's Courtroom R, Santa Monica Courthouse.

42 USC 1983, 42 USC 1985 (2) (3) and FRAUD AND MISREPRESENTATION

(All Santa Monica College defendants)

1. Plaintiff reported the sexual assault (July 94) on 25th November, 1996 to police officer Ron Marable. The California Statute CCP 338 (4) for fraud and mistake is three years, and so Plaintiff reported the instructor's sexual assault after two and a half years which is within the three year statute of limitations for fraud and mistake. (prompted by the instructor's untrue statements about Plaintiff to the police officer.)

2. and then misrepresentation occurred because defendant Police Officer Ron Marable told Plaintiff the sexual assault was too old to report. In other words Marable told Plaintiff that the Statute Of Limitations had run out to report the sexual assault.

3. which is not true because of the California Civil Procedure 338 (4) three years statute of limitations because of fraud of mistake, to report battery/sexual assault. 4. and Plaintiff relied on defendant Santa Monica College Police Officer Ron Marable's statement and knowledge of the law because he was a police officer

5. and Plaintiff's reliance on his information was justifiable as he is a police officer, and Plaintiff trusted defendant Santa Monica College Police Officer Ron Marable was giving the correct information to Plaintiff - which he was not.

6. so defendant Santa Monica College Police Officer Ron Marable misrepresented the statute of limitations to Plaintiff by saying the sexual assault was too old to report, and his misrepresentation was intentional, because later on when Plaintiff asked him in March 1998,

he denied Plaintiff had ever reported the instructor's sexual assault to him, or that he had interrogated Plaintiff about it detail in November 1996.

7. Also in Santa Monica College's Summary closing their investigation about Instructor Larry Jones's sexual assault on Plaintiff, Exhibit T, dated February 9th, 1998 (is written evidence that the College was stating that Plaintiff first reported the sexual assault to College administrators in May 1997, and not November 25th, 1996, six months earlier - which is when Plaintiff first reported the Instructor's sexual assault to defendant Marable.

Thus defendant Robert Sammis and Defendant Jo Ann Fielder of Human Resources Santa Monica College changed the date when Plaintiff first reported the sexual assault to Santa Monica college to make it look as if Plaintiff reported the Santa Monica College Instructor's sexual assault after Plaintiff had been banned from the college on a very flimsy pretext, as opposed to before.

8. So the February 9th, 1999 Summary Of Investigation Exhibit T, date which states Plaintiff first reporting the sexual assault in May, 1997, is not true as Plaintiff first reported the sexual assault in November 1996, to Santa Monica Police Officer Ron Marable, and so plaintiff reported Instructor Larry Jones's sexual assault on her to Police Officer Ron Marable five months before she was banned from Santa Monica college on a flimsy pretext that stemmed from when she had reported Instructor Larry Jones sexual assault to Police Officer Ron Marable.

9. In the Summary dated 9th, February, 1998, Exhibit T, because the date is changed from 25th, November 1996 to the later date of May 1997, this later date disguises that Santa Monica College had in fact retaliated against Plaintiff for reporting sexual assault by Instructor Larry

Jones to their police department, by banning Plaintiff from the college (on a flimsy pretext).

10. The time of the ban May 1998 - in relation to Plaintiff's police report of 25th Nov 96 against the student Mary- there was a huge time lapse gap of four months which does not make sense to wait that long if the college were really fearful that Plaintiff was a threat, but it does make sense from the standpoint of allowing the statute of limitations run out for the instructor's sexual assault on Plaintiff, and the ban was promoted by and on the premise of Instructor Larry Jones who had already defamed Plaintiff's character to defendant Santa Monica College Police

Officer Ron Marable over the phone, which Police Officer Marable had already conveyed to Plaintiff in November 1996.

11. It was only after February 9th, 1998, that Plaintiff had visible evidence that defendant Robert Sammis and defendant Jo Ann Fielder of Human Resources of Santa Monica College were using this switch of dates in their final closing Summary of Investigation into Allegations of sexual assault, Exhibit T, by a date switch to make it seem as if Plaintiff had been banned from College before Plaintiff had reported Instructor Larry Jones's sexual assault to Santa Monica College, as opposed to being banned from the college 6 months after Plaintiff reported Instructor Larry Jones sexual assault to defendant Police Officer Ron Marable.

Only after February 9th, 1998 did PLAINTIFF have written indication that fraud had taken place, signaling that there really had been a retaliation against Plaintiff for making the sexual assault complaint against Instructor Larry Jones otherwise the dates would not have had to have been twisted around, in order to disguise that a retaliation had taken place, and the switch

of dates is also evidence that there was a conspiracy to defame Plaintiff's character by making out she was reporting the sexual assault at the time she was banned from the college as opposed to her reporting the sexual assault and then was banned from the college. Thus exhibit T , was the evidence that Plaintiff needed to see that there had been obstruction of justice and twisting of the sequence of events in order to disguise the retaliation against Plaintiff and in order to deprive Plaintiff of civil rights and equal protection of the laws guaranteed under the fourteenth amendment and under 42 USC 1983, and 1985 (2)(3).

12. Also in Santa Monica College's Summary of Investigation dated 9th February, 1998, there was no mention that the College tried to interview Police Officer Ron Marable to ask him if Plaintiff had informed him about the sexual assault in Nov, 1996, even though Plaintiff had informed three Santa Monica College administrators, Daniel Cano, of Admissions and records, Brenda Simmons of Admissions and Records; and Joanne Fielder about how Plaintiff had informed Police Officer Ron Marable in November 1996 of the sexual assault against her, and wrote a letter to Joanne Fielder of Human Resources in November 1997, attached as Exhibit Z100 and incorporated by this reference.

13. An impartial and serious investigation into the Instructor's sexual assault on Plaintiff, would have immediately informed Plaintiff of the discrepancy between the date when Plaintiff said Plaintiff first reported Instructor Larry Jones's sexual assault to Police Officer Marable, and

what Marable was stating which was (at least on March 17th, 1998 and at the hearing on 6th Oct. 1998) that there had been no such discussions about sexual assault between Plaintiff and himself in November, 1996.

14. The discrepancy between when Plaintiff said Plaintiff reported the sexual assault to Marable in November 1996, was never addressed in this summary dated February 9th, 1998, and he was never even interviewd, see Exhibit T, attached and incorporated by this reference.

15. In the Key factual findings of the Summary Of Investigation III a. it states Ms. Bernhardt did not file a complaint or inform District personnel of the alleged sexual harassment alluded to her statement of May 28th, 1997, and Jo Ann Fielder and Robert Sammis did not address this discrepancy, even though Plaintiff had informed Joanne Fielder in writing in November 1997 that, I quote, "In November 1996, when I caught Larry Jones lying to Sergeant Ron Marable about me in jest, I saw his abuse of me was on going and that is when I decided to be silent no longer." This was when I first told Sergeant Ron Marable (and Santa Monica College) that Instructor larry Jones sexually assaulted Plaintiff."

16. As the discrepancy in the date when Plaintiff said Plaintiff first reported the sexual assault to Santa Monica College was not directly addressed in the summary of investigation dated February 9th, 1998, Exhibit T, this is evidence of scienter, because there was a discrepancy - even though Plaintiff did not know that there was a discrepancy until it was revealed to her after February 9th, 1998, and also did not discover that the discrepancy in dates was NO MISTAKE until after March 17th, 1998 which is when Plaintiff made that special trip to the police station to ask defendant Police Offficer Ron Marable and discovered he was denying that she reported Instructor Larry Jones sexual assault on her - to her face.

So because the Key factual findings in the Summary Of Investigation III a. states Ms. Bernhardt did not file a complaint or inform District personnel of the alleged sexual harassment alluded to her statement of May 28th, 1997, and because Plaintiff had already informed Santa

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Monica College Administrators Daniel Cano, Brenda Simmons, Dorothy Gelvin and Joanne Fielder previously that Plaintiff had informed defendant Santa monica college Police Officer Marable of the sexual assault in November 1996, the investigation summary Exhibit T, avoided addressing this discrepancy, and avoiding investigating Santa Monica College Police Officer Ron Marable about the discrepancy

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in dates.

And if the investigation had investigated Marable this would have established the discrepancy.

BUT SANTA MONICA COLLEGE AVOIDED REVEALING THE DISCREPANCY TO PLAINTIFF AND IT WAS IN THE COLLEGE'S INTEREST TO HIDE THIS DISCREPANCYIN DATES FROM PLAINTIFF - UNTIL WELL AFTER THE STATUTE OF LIMITATIONS HAD RUN OUT FOR THE INSTRUCTOR'S SEXUAL ASSAULT ON PLAINTIFF, AND SANTA MONICA COLLEGE AVOIDED INTERVIEWING MARABLE ABOUT THE DISCREPANCY BEFORE - AS WELL AS AFTER - PLAINTIFF FOUND OUT THAT THE DISCREPANCY WAS NO MISTAKE.

THE REASON THAT SANTA MONICA COLLEGE POLICE OFFICER WAS NEVER INVESTIGATED ABOUT THE DISCREPANCY IN DATES IS BECAUSE THE COLLEGE HAD ALWAYS KNOWN THAT SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE WAS CONCEALING THE TRUTH, AS HE WAS ACTING ON THEIR BEHALF, AND RATHER THAN ALERT PLAINTIFF TO THAT FACT, THEY CONCEALED IT FROM PLAINTIFF FOR AS LONG AS THEY COULD, UNTIL AFTER THE STATUTE OF

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LIMITATIONS HAD RUN FOR FRAUD AND MISTAKE FOR THE CAUSE OF ACTION OF SEXUAL ASSAULT BY INSTRUCTOR LARRY JONES ON PLAINTIFF.

17. As Plaintiff was not aware that Santa Monica College was misrepresenting the date when Plaintiff said Plaintiff first reported the sexual assault until after February 9th, 1998 when Plaintiff received the written summary, Plaintiff never knew of the discrepancy until after February 9th, 1998. And so Santa Monica College effectively hid fraud, and their retaliation against Plaintiff, until after the statute of limitations had run. As Plaintiff was banned from the college with no due process of law, not because Plaintiff made a complaint about a female student who at one time had been in the instructor's department, but as a retaliation for reporting Santa Monica College Instructor Larry Jones's sexual assault, and in order to defame Plaintiff's character further and in order to protect the good name of Instructor Larry Jones. .

18.Plaintiff believe that the written Summary Of Investigation into Plaintiff's allegation about sexual assault by Instructor Larry Jones, Exhibit T, which Jo Ann Fielder promised Plaintiff in November 1997, but was not prepared until February 9th, 1998 proves scienter, because in an

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impartial investigation Joanne Fielder of Santa Monica College Affirmative Action, and Robert Sammis of Human Resources would investigate if Plaintiff said Plaintiff did first report the sexual assault to Marable - to establish whether Marable agreed with Plaintiff or not. If he agreed great, BUT IF HE DISAGREED, THE COLLEGE WOULD BE HAPPY TO RECORD THAT HE DISAGREED - in the summary of investigation, and that would discredit Plaintiff even further, enhancing

Instructor Larry Jones and their position, but SANTA MONICA COLLEGE could only record that Marable disagreed with Plaintiff only if he and Santa Monica College et al had nothing to hide.

BUT SANTA MONICA COLLEGE AND DEFENDANT SANTA MONICA COLLEGE POLICE OFFICER DID HAVE SOMETHING TO HIDE - AND THEREFORE DID NOT WANT TO ALERT PLAINTIFF TO THE DATE DISCREPANCY UNTIL AFTER THE STATUTE OF LIMITATIONS HAD RUN OUT.

19. Only after February 9th, 1998, did Plaintiff have written evidence that showed Plaintiff what was wrong as far as when Plaintiff first reported the sexual assault. Shortly after Plaintiff arranged to speak to Santa Monica college Police Officer Ron Marable to see what he had to say. And when Marable denied to Plaintiff's face, having ever having heard Plaintiff's sexual assault complaint in Nov. 96, then Plaintiff knew that the May 97 date for Plaintiff's first reporting the sexual assault to the College on Robert Sammis's Summary Of Investigation for Allegetions of sexual assault was a contrivance, and nomistake, as it was backed up by Santa Monica College Police Officer Ron Marable.

STATUTE OF LIMITATIONS AND EQUITABLE ESTOPPEL AND EQUITABLE TOLLING

20. Therefore Ron Marable and Santa Monica College et al - should not be able to raise the statute of limitations as a defense now because of the doctrine of equitable estoppel, which embodies the principle that one, who by his words or action, represents certain state of facts to be true, and thereby induces another to act to his detriment should be thereafter precluded from denying existence of such state of facts. In Re Ellison Associates, 63, B.R. 756.

21. "Estoppel is equitable doctrine invoked by courts to preclude a party from asserting claim or defense which is premised upon that party's wrongdoing, however showing

of affirmative misconduct is necessary to invoke this doctrine against Government. U.S. v Board Of Education of City Of Union City, 697 F. Supp. 167.

The true names and capacities whether, individual corporate associate or otherwise, of

Unknown Named Sheriff Deputies Does 1-50, and Unknown Named Defendants 1 through 100, and each of them, are unknown to Plaintiff, who therefore, sues said defendants by such fictitious names and Plaintiff will ask leave to amend his Complaint to state their true identities and capacities when the same has been ascertained. . Each of the Unknown Named Defendants 1- 100 inclusive, and Unknown Named Sheriff Deputies Does 1-50 inclusive, is in some manner and to some extent liable for the injuries alleged in this Complaint. Each defendant is, and at all times herein mentioned was, the agent, employee, representative of each other defendant, or aligned themselves, in some way. At all times herein mentioned, each and every defendant herein had the legal duty to oversee and supervise the hiring, training, conduct, employment and discipline of each and every other defendant herein. Each defendant, in doing the acts, or in omitting to act as alleged in this Complaint, was acting within the scope of his or her actual or apparent authority, or the alleged acts and omissions of each defendant as agent subsequently were ratified and adopted by each other defendant as principal. Defendants County Of Los Angeles, Los Angeles County Sheriff's Department , Santa Monica College Police Department, Santa Monica College, Santa Monica College Community District, and Santa Monica College Board Of Trustees, and Unknown Named Defendants 75 through 100 are, and at all times herein mentioned were political subdivisions of the State Of California, duly organized and existing under the laws of the State Of California. Defendant R.L. Jones, at all times herein mentioned, was

employed by the defendant Santa Monica College, Santa Monica College District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles, and/or State Of California, and in doing the things hereinafter alleged, was acting within the course and scope of his employment, apart from his sexual assault on Plaintiff in his Santa Monica College class, which was out of bounds of the course and scope of his employment. Defendants, Piedad Robertson, Robert Sammis, Joanne Fielder and Brenda Simmons at all times herein mentioned, were employed by the defendant Santa Monica College, Santa Monica College District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles, and/or State Of California, and in doing the things hereinafter alleged, were acting within the course and scope of their employment Defendants Santa Monica Police Officer Ron Marable, and Santa Monica College Police Chief Eileen Miller at all times herein mentioned, were employed by the defendant Santa Monica College, Santa Monica College Police

Dept. Santa Monica College District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles, and in doing the things hereinafter alleged, were acting within the course and scope of their employment. Defendants Herb Roney, Dorothy Ehrhardt Morrison, Nancy Cattell , Carol Currey, Ilona Jo Katz, Patrick Nichelson, and Annette Shamey at all times herein mentioned, were employed by defendant Santa Monica College, Santa Monica College Community District, Santa Monica College Board Of Trustees, and/or County Of Los Angeles and /or State Of California, and in doing the things hereinafter alleged, were acting within the course and scope of their employment.

Defendant Lee Baca, at all times herein mentioned, was employed by the defendant County Of Los Angeles, as the Sheriff Of the County Of Los Angeles, and doing

the things herinafter alleged was acting within the course and scope of his employment.

Defendant Laurence D. Rubin, at all times herein mentioned, was employed by the defendant County Of Los Angeles, as a Judge in County Of Los Angeles, and doing the things hereinafter alleged, was acting within the course and scope of his employment.

Defendants 1-10 unknown Caucasian male Sheriffs Deputy Bailiffs DOES employed in Judge Laurence Rubin's Courtroom R, County Of Los Angeles, Santa Monica Courthouse at all times herein mentioned, were employed by the defendant County Of Los Angeles, as the Sheriff Of the County Of Los Angeles, and doing the things hereinafter alleged was acting within the course and scope of his employment.

Defendants Sheriff Sherman Moten, 22, Sheriff Deputy Bailiff Terry January (Regular daily Bailiff Of Judge Laurence Rubin's Courtroom R) 23. 1-50 unknown Sheriffs deputy DOES employed by County Of Los Angeles Santa Monica Courthouse, and County Of Los Angeles Sheriffs Department, and 24. Unknown Named Defendants 1 through 75 are, and at all times herein mentioned were, employed and/or agents and/or servants and/or employed some other relationship with one or more of the governmental entities Named herein as Defendants, and in doing the things hereinafter alleged were acting within the course and scope of said relationship.

Plaintiff is informed and believes and thereon alleges that, at all times relevant to this Complaint, all defendants who are natural persons, namely, R L Jones, Ron Marable, Eileen Miller, Piedad Robertson, Robert Sammis, Brenda Simmons, Herb Roney, Dorothy Ehrhart Morrison,

Nancy Cattell, Carol L.Curry, llona Jo Katz, Patrick Nichelson, Annette Shamey, Laurence D. Rubin, 1-10 Caucasian male Sheriff's Deputy Does (of Judge Laurence D. Rubin's courtroom R) Terry January, Sherman Moten, Sheriff Deputy Does 1-50, and Unknown Named Defendants 1-50, acted under the color of state law, and each such defendant is sued both in an individual as well as in an official capacity.

Plaintiff is informed and believes and thereon alleges that, at all times relevant to this Complaint, defendant Offune Obiamiwe who is a natural person, acted under the color of state law.

Plaintiff is unaware of the true names of 1-10 Caucasian male Sheriff's Deputies and/or Sheriff's Deputy Bailiffs (Of Judge Laurence D. Rubin's courtroom R), but they acted under color of state law, and have been hidden under color of state law

In December 1998 Plaintiff presented a claim for damages to the State Board of Control, Government Claims Division of the State Of California pursuant to Government Code Section 910 et seq. Said claim was denied by the State Board Of Control, by its letter of 15th January 1999 to plaintiff that said they had no jurisdiction, as the "Entity that you allege caused the damages or injuries is not a State Government Agency." Said denial is attached to this Complaint as Exhibit B and incorporated herein by this reference. Defendants' liability under California law is premised both on Government code Sections 815.2 and 820

FACTS COMMON TO ALL COUNTS

Plaintiff was deprived of interests protected by the Constitution or laws of the United States and defendants caused all such deprivations while acting under color of state law Plaintiff is informed and believes and thereon alleges that all acts and/or omissions alleged to have been

engaged in by any defendant are alleged to have been committed with evil motive and intent, and in callous, reckless, and wanton disregard to the rights of plaintiff.

In the following causes of action -Plaintiff named the person(s) who were visibly involved in causing damages and injury to Plaintiff. By not naming others who could be responsible or liable for these acts i.e. people who created the policy or who were indifferent to the acts of the visible parties, these other persons or entities may also responsible for these acts or omissions. And Plaintiff is not giving any rights away in not naming them now, or conceding that these persons or entities or

individuals or officials or municipality are not responsible or liable for the acts of the visible parties. All Plaintiff is doing by naming only the visible parties in each cause of action is making the complaint clear..

BATTERY/ RESTRAINED SEXUAL ASSAULT/SEXUAL HARASSMENT UNDER 42. U.S.C. 1983, 42 § USCA 13981 INTENTIONAL TORT, AND COMMON LAW;

(Defendants R .L. Jones)Defendant R.L. Jones is employed as a photography teacher by Santa Monica College, and has been employed there for many years. Plaintiff took photo 50, color printing with RL Jones in June of 1994. Please see Exhibit Q attached and incorporated by this reference, which are RL Jones written comments on Plaintiff's work in that class. Beginning in approximately July 1994, and continuing thereafter defendant R L Jones, while acting as a Santa Monica College photography instructor subjected Plaintiff to disparate treatment in the terms and conditions of her photography class on the basis of her sex in the form of actions and statements, including the following - **Plaintiff was studying a photograph at the color filter table in the photography lab,**

when plaintiff was surprised by something very hard being pressed up against her behind. When Plaintiff turned around she found it was Defendant Instructor R Larry Jones with his erect genitals pressed up against her. Plaintiff was unable to stop defendant R L Jones sexual assault on her person because a solid table was in front of her, so she could not move out of his sexual assault on her person. Defendant Instructor R L Jones moved off plaintiff quickly and out of the vicinity, after plaintiff turned around and recognized that it was her instructor. The sexual assault lasted about ten seconds. Both plaintiff and defendant exchanged no words. After Plaintiff was in a state of shock. The foregoing violated plaintiff's right under the Fourth Amendment to be secure in her person from unreasonable **seizures**. There is a constitutional right of privacy in the fourteenth amendments guarantee of personal liberty, so that if there is an invasion of privacy because of a restrained battery/sexual assault -then the Constitutional right to privacy limits the power of the government to regulate that invasion of privacy with laws that state - a one time occurrence of an action i.e. restrained offensive battery is not harassment, because that law is stating that a restrained offensive

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battery is not harassment because it only happened one time - & therefore that law is unconstitutional as it denies an individuals fundamental right to be safe from attack and to privacy - even if the invasion of privacy i.e. the restrained offensive battery only happens one time."The photography lab in the Technical Building, was not brightly lit, and had many compartments and dark rooms and black curtains, and there was a small corridor area by the color filter table where plaintiff was standing when she was sexually assaulted by Instructor R L Jones

BATTERY is the intentional infliction of a harmful or offensive bodily contact, and Defendant RL Jones desired to cause the contact, which was harmful and offensive to Plaintiff. Defendant RL Jones intended to commit offensive touching to Plaintiff – i.e. restrained sexual assault, and such contact occurred, therefore defendant R L Jones is liable for any UNFORESEEN CONSEQUENCES that have ensued since that time.

After defendant Jones had sexually assaulted Plaintiff, defendant Santa Monica College Instructor RL Jones began to pursue student Marissa, a student in this same summer 1994 Photo 50 class. A photo of student Marissa is attached and incorporated by this reference as **Exhibit R**. Shortly after R.L. Jones had sexually assaulted Plaintiff, defendant RL Jones told Plaintiff during a class session in front of Marissa, that he was trying to persuade Marissa to be his girlfriend, and Marissa did become RL Jones's girlfriend!

On the right side of the photograph **Exhibit R**, is a former Santa Monica College Instructor, Deirdra Garvey who witnessed defendant Instructor R L Jones's flirtation with Plaintiff in the summer of 1994, and had to ask Instructor RL Jones at the end of the semester whether he wanted the College's Photographic color filters back as he had left one in Plaintiff's photo portfolio.

Defendant RL Jones was the supervisor of Instructor Deirdre Garvey in the photography department, and her position as an instructor was taken away from her at Santa Monica College in 1992/3 - over an apparent incident with another student in the photography department. A year or so later she was reinstated as a photography instructor before she left the college in 1996. Deirdra Garvey's career as a teacher and reputation suffered, while under RL Jones supervision, over an apparent incident with another student which took place **PRIOR** to any contact that Plaintiff had with

defendant RL Jones. So Plaintiff witnessed a pattern in RL Jones's supervision of females in his department! Plaintiff found that Deirdre Garvey was an excellent photography teacher, in a department housing many volatile students and instructors.

While Photo 50 was in session in July 1994 Deirdre Garvey had seen the movie *Forrest Gump* and suggested for everyone in the class to see it. Plaintiff saw the film *Forrest Gump* a week or two after Instructor Larry Jones had sexually assaulted her.

The film was released in Los Angeles on 6th July, 1994. After seeing the movie Plaintiff said to Deidre in the photo lab, how true it was that Forrest Gump's mother had to have sex with the school principle in order for her child, Forrest Gump to get an education. Plaintiff remembers feeling awkward after saying this because she turned around and there was Instructor R L Jones who overheard.

Plaintiff realized that she had made the connection between the school principle in *Forrest Gump* who had wanted sex from Forrest Gump's mother in return for an education for her son, just as defendant Instructor RL Jones of Santa Monica College also by his action wanted sex in return for a photography education from Plaintiff - in that he had already made a surprise sexual assault on Plaintiff in his Photo 50 class in that summer of 1994, which was still in session.

The only difference was that unlike Forrest Gump's mother in that movie - **Plaintiff had never consented to a surprise restrained sexual assault on her person by Instructor Larry Jones in the classroom setting, or in any setting - in exchange for an education in photography.**

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS - CAUSED BY RESTRAINED SEXUAL

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BATTERY/ AND DEFAMATION OF CHARACTER (Defendants R .L. Jones)

The day after defendant Larry Jones sexually assaulted plaintiff, defendant asked a question in a joking manner and humiliated the plaintiff in front of other students in the color printing class lab who were standing near him. Defendant R L Jones's shouted out loudly at plaintiff **"Are you touching me again?"** Plaintiff was nowhere near defendant and so defendant Jones shouting out to other students "Are you touching me again" was not true as he twisted the situation around, of the previous day. This habitual joke of defendant R L Jones made students laugh, but for plaintiff – the

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"are you touching me again" question had an additional meaning for Plaintiff that day, because she had been sexually assaulted by defendant RL Jones the previous day.

INTENTIONAL INFLICTION OF MENTAL DISTRESS (Defendant R L Jones)

occurs if defendant R L Jones intentionally or recklessly causes by outrageous conduct, severe emotional or mental distress to the Plaintiff.

DEFAMATION OF CHARACTER BY SLANDER PER SE IN ADDITION TO RL JONES SEXUAL ASSAULT OF PLAINTIFF (Defendants R .L. Jones)

This DEFAMATORY false statement by defendant RL Jones, **"Are you touching me again,"** was slander per se, and not true, as Plaintiff was a few feet away from defendant L Jones, and not touching him when he asked plaintiff his "joking" question 'are you touching me again? To repeat defendant R L Jones statement was also twisting around his predatory restrained sexual assault on Plaintiff of the previous day on the Plaintiff - as he was publicizing that Plaintiff had touched him in the past, when in reality it was the way around. And when

defendant RL Jones said to Plaintiff "Are you touching me again?" in front of others, he said it with knowledge of its falsity - in all of its possible meanings, and in reckless disregard of the truth.

Therefore Defendant Jones slandered Plaintiff's reputation, even though he was doing this "in jest", and this was the beginning of a pattern to RL Jones twisting of facts around concerning the Plaintiff.. As Instructor RL Jones had sexually assaulted Plaintiff the previous day - his defamatory statement against her in public – showed his way of operating - and was the same kind of twisting around and defamatory statement made to Police Officer Ron Marable two years later, when Plaintiff had been harassed not by RL Jones - this time, but by a student called Mary a few days earlier.

In other words R L Jones's had a pattern of defaming Plaintiff's character in public. And as his defamation of Plaintiff's character was communicable and credible because of his status as an instructor - it multiplied, and when the heat got turned way up, because Plaintiff reported that he had sexual assaulted her, the defamation against her became contagious and outrageous.

Defendant R L Jones's asking Plaintiff "Are you touching me again?" also had a dual purpose in that it was also a device to elicit some response from Plaintiff to give him an answer to his sexual

advances on her of the previous day. Plaintiff responded with "Yes, I am touching you – because you touched me yesterday." Plaintiff replied in this way – in an angry tone of voice – even though plaintiff was not touching defendant R L Jones - and was nowhere near him, to inform the defendant quite firmly, never to sexually assault her again!

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Plaintiff did not report the sexual assault at the time it happened in 1994, and finds in hindsight - it was a mistake not to have reported Defendant R L Jones's sexual assault on her then - to Santa Monica College and their Police Department and **Plaintiff would also** know now to insist that it be taken down in writing. And if the police department now refused to take down the complaint in writing Plaintiff would now go to the head of the school immediately, and would not wait for the schools investigation and would not go to County Of Los Angeles State Court because both were totally biased, and the County's Court was not only biased it was extremely dangerous. But at the time Plaintiff didn't know all this - Plaintiff just had a suspicion of the outcome, and hoped to peacefully get on with her life, and hoped that the abuse would be a one time occurrence, which unfortunately - in the end it was not!

Plaintiff reported defendant Larry Jones's sexual assault on her to fellow students, Timothy Tindall, and Robert Clato-Day in July of 1994.

Later on in 1994 Plaintiff witnessed defendant RL Jones asking a student Suzy from Denmark to pose nude for some private photographic shoots he was holding on campus. Plaintiff was aware that defendant RL Jones was asking many of the female photography students to pose nude for shoots on campus in the campus laboratory, as defendant RL Jones's student girlfriend Marissa had also told Plaintiff about this project.

It was in November 1996 Plaintiff became fully aware of her mistake in not reporting defendant Santa Monica College Instructor Larry Jones for his sexual assault on plaintiff in 1994, as he defamed Plaintiff's character to Santa Monica College Police Officer Ron Marable over the telephone, according to Police Officer Ron Marable, and as Instructor Larry Jones defamed Plaintiff's character for no good reason - when Plaintiff 's purpose was to be free of all harassment at Santa Monica

College, Plaintiff found it important at that time - **to no longer keep it from Santa Monica College authorities – that Instructor Larry Jones had performed a restrained sexual assault on**

her in the classroom setting.

And what is so sad about this matter is that the only reason Plaintiff had approached the Santa Monica College Police department was to be free of harassment at Santa Monica College, and yet that Police department with their misrepresentation, fraud and deceit, along with Santa Monica College's unfair and discriminatory procedure harassed her much further, all of which eventually led to police brutality against her in a County Of Los Angeles Courtroom.

CALIFORNIA CIVIL CODE OF PROCEDURE 338 (4) IS A THREE YEAR LIABILITY EXCEPTION FOR FRAUD OR MISTAKE - WHICH GIVES RELIEF ON THE GROUNDS OF FRAUD OR MISTAKE .California Civil Code Of Procedure 338 is a three years statutory liability exception; for fraud or mistake, and **CCP338 (4) gives relief on the ground of fraud or mistake.** The cause of action for sexual assault/battery in that case is not deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake in not reporting the sexual assault before, and Plaintiff discovered this in November, 1996 which is when Plaintiff did report the sexual assault to Santa Monica college Police department because of R L Jones defamation of her character and his intentional infliction of emotional distress.

But Police Officer Marable refused to take a written report and told Plaintiff that defendant Jones's sexual assault on her was too old to report, which wasn't true as Plaintiff was reporting the sexual assault to defendant Marable within the three year statute of

limitations for fraud and mistake under California Civil Code of Procedure 338 (4).

Therefore as defendant Santa Monica college police officer Ron Marable's obstructed justice by refusing to write down Plaintiff's sexual assault complaint against defendant Larry Jones in November 1996, by saying it was too old to report, and by misrepresenting the statute to Plaintiff, **THE STATUTE SHOULD BE TOLLED FROM NOVEMBER 1996 TO DATE TO INCLUDE THE CAUSE OF ACTION FOR SEXUAL ASSAULT NOW. AS THE SANTA MONICA COLLEGE DEFENDANTS SHOULD NOT BE ALLOWED TO BENEFIT BY THEIR OBSTRUCTION OF JUSTICE, THEIR INTENTIONAL MISREPRESENTATION OF THE STATUTE TO THE PLAINTIFF WHEN SHE WAS REPORTING THE SEXUAL ASSAULT TO THE SANTA MONICA COLLEGE POLICE DEPARTMENT WITHIN THE STATUTE OF LIMITATIONS, AND SANTA MONICA COLLEGE ET AL, ETC, SHOULD**

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NOT BENEFIT FROM THEIR FRAUD BY LATER SAYING THAT PLAINTIFF HAD NEVER MADE THE SEXUAL ASSAULT COMPLAINT ABOUT INSTRUCTOR LARRY JONES TO SANTA MONICA POLICE OFFICER RON MARABLE IN NOVEMBER 1996.

AND SANTA MONICA COLLEGE SHOULD BE BARRED FROM RAISING THE STATUTE OF LIMITATIONS AS A DEFENSE NOW - AS SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE MISREPRESENTED THE STATUTE OF LIMITATIONS TO THE PLAINTIFF when she first reported Larry jones sexual assault to him. in November 1996, AND THEN DEFRAUDED PLAINTIFF LATER BY DENYING TO HER FACE IN

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MARCH 1998 - THAT SHE EVER REPORTED INSTRUCTOR LARRY JONES'S SEXUAL ASSAULT ON HER TO HIM. Plaintiff had reported Instructor Larry jones sexual assault on her within the statute of limitations but was purposely misled by defendant Police officer Ron Marable, and Santa Monica College Police Department, for the purpose of covering up her sexual assault complaint against Instructor Larry Jones, so as to stop her from having any chance to lititgate against Instructor Larry Jones and Santa Monica College while the sexual assault complaint was still within the statute of limitations. Which is also very similar to the bad faith present in defendant Police Officer Ron Marable concealing the California Government Claim requirement at Santa Monica Courthouse on October 6th, 1998. Plaintiff sees another pattern here!!!!

EQUITABLE ESTOPPEL, AND EQUITABLE TOLLING. The general elements of equitable estoppel are (1) assertion of a position by conduct or word, i.e. Ron Marable told Plaintiff sexual assault was too old to report when it was not to old to report as per California Code of Civil procedure 338 (d) for fraud and mistake is three years statute, and plaintiff reported Instructor Larry Jones's sexual assault on her within three years (2) There was reasonable reliance thereon, and (3) resulting prejudice. And a fourth element, most often explicitly stated in promissory estoppel cases, is that the **estoppel will be enforced only to the extent that justice so requires. In this case the public interest is served because Santa Monica College Police should be protecting and serving and giving equal protection under the law to Plaintiff and to other students at Santa Monica College, and this Constitutional right was fraudulently taken from Plaintiff in this case.**

INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

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(Defendants R .L. Jones.)

In November 1996 Plaintiff went to Santa Monica College Police station to report an incident of harassment by student Mary. Student Mary had harassed Plaintiff a few days earlier in November, 1996, Defendant Santa Monica College Police Officer Ron Marable wrote down **the police report** - not an accurate rendition. The police report is attached and incorporated by this reference as **Exhibit C**. When Plaintiff made the police report to defendant Santa Monica College Police Officer Ron Marable on 25th November, 1996, plaintiff had been harassed by Mary, but defendant Marable did not witness this, had not been involved, nor was anyone else involved, until Plaintiff made the police report five days later.

Plaintiff was the only person who made a police report. Plaintiff was the only person being harassed Plaintiff involved Defendant Instructor R L Jones solely because he was the only person that could identify Mary, and her last name, as Plaintiff did not know it.

Defendant Police Officer Ron Marable contacted Defendant Instructor R Larry Jones by telephone while plaintiff was in his office to ascertain student Mary's last name. After Defendant Ron Marable and defendant Jones spoke over the telephone, Defendant Ron Marable revealed to Plaintiff that Defendant Instructor R Larry Jones had made comments about Plaintiff to him.

Plaintiff found defendant Jones's comments to defendant Marable about her to be untrue. Plaintiff told defendant Santa Monica College Police Officer Ron Marable that Defendant R L Jones's comments about her were false. Defendant Santa Monica College Police Officer Ron Marable responded to Plaintiff saying that **Defendant R. L. Jones** was **"just joking"** and by

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Marable's statement, defendant Santa Monica College Police Officer Ron Marable revealed that he knew defendant R L Jones well, in that he was able to speak for Instructor Larry Jones in his absence, and explain what he meant in his absence.

Plaintiff was then compelled to report defendant RL Jones's earlier sexual assault on her, to defendant SMC Police officer Ron Marable at the Santa Monica College Police Department

In November 1996, Plaintiff reported defendant Santa Monica College Instructor R L Jones sexual assault on her, to defendant Santa Monica College Police Officer Ron Marable at Santa Monica College Police station, because defendant R L Jones had involved himself against Plaintiff, by

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defaming her character to Marable in a harassment problem that had occurred in November 1996, which he was not witness to, **and so Plaintiff no longer felt any need to keep his restrained sexual assault on her person to herself, any longer, and was compelled to report him.**

SECOND CAUSE OF ACTION -SEXUAL ASSAULT AND COVER UP OF SEXUAL ASSAULT - DISCRIMINATION -VIOLATIONS UNDER TITLE IX OF THE EDUCATION AMENDMENTS OF 1972, AND," 20 U. S. C. §1681(a), 1687, AS AMENDED, 20 U. S. C. §1681 ET SEQ; TITLE VI OF THE CIVIL RIGHTS ACT OF 42 U.S. C § 2000 d ET SEQ, d-1, d-2, d-7.(ALL SANTA MONICA COLLEGE ET AL, DEFENDANTS)Officially and Individually

A Title IX claim against a school district was enacted to counter policies of discrimination . . . in federally funded education programs, and that only if school administrators have some type of notice of the gender

discrimination and fail to respond in good faith can the discrimination be interpreted as a policy of the school district.

TITLE IX PROVIDES THAT "NO PERSON IN THE UNITED STATES SHALL, ON THE BASIS OF SEX, BE EXCLUDED FROM PARTICIPATION IN, BE DENIED THE BENEFITS OF, OR BE SUBJECTED TO DISCRIMINATION UNDER ANY EDUCATIONAL PROGRAM OR ACTIVITY RECEIVING FEDERAL FINANCIAL ASSISTANCE." THE OFFICE OF CIVIL RIGHTS HAS RULED THAT AN EDUCATIONAL INSTITUTION'S' FAILURE TO TAKE THE APPROPRIATE RESPONSE TO TEACHER TO STUDENT HARASSMENT, OF WHICH IT KNEW OR HAD REASON TO KNOW, IS A VIOLATION OF TITLE IX.

Damages can be recovered for teacher-student sexual harassment in an implied private action under Title IX if a school district official, who at a minimum has authority to institute corrective measures on the district's behalf has actual notice of, and is more than deliberately indifferent to, and actually obstructs justice by doing its best to cover up - the teacher's misconduct, through Jo Ann R Fielder, Assistant Dean Equal Employment Opportunity

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diversity whose written customs, policies and procedures state, "The results of the investigation determined that there were no violations of the district's policy against unlawful discrimination, to include sexual harassment, a one (1) time occurrence of an action [SUCH AS RESTRAINED SEXUAL ASSAULT] is not harassment", Please see Exhibit S, attached and incorporated by this reference which is Jo Ann R Fielder and Santa

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Monica college's first denial to Plaintiff that Instructor Larry Jones had sexually assaulted her.

Also Jo Ann Fielder, Assistant Dean, Equal Employment Opportunity Diversity believed that Plaintiff had been sexually assaulted by RL Jones, and said to Plaintiff in January 1998 when Plaintiff wanted to play her the tape of the other students complaints against R L Jones that she could not hear the tape as it was hearsay evidence, and said to Plaintiff, I quote, " RL Jones knows not to sexually assault students in future because he had been warned, and had gone through enough," Also when Plaintiff pointed out to Jo Ann Fielder in November 3rd 1997 that even rape could be a one time occurrence, Jo Ann R Fielder conceded to Plaintiff that her letter to Plaintiff, Exhibit S, did not make very much sense. Also Jo Ann Fielder said she was going to send the Summary Of Investigation to Plaintiff in November 1997 to plaintiff but it was delayed for another three months for some reason - and it seems that Robert Sammis had not even written it up, and because of the highly apparent switch in dates in that document as to when Plaintiff first reported the sexual assault, which made out that Plaintiff had first reported defendant Jones sexual assault on her when she had already been banned from the College when in fact she reported the sexual assault six months earlier. And Plaintiff had told Jo Ann R Fielder on many occasions including her letter to her in November 1997 that she had reported the sexual assault to Ron Marable in 1996. please see Exhibit Z100, attached and incorporated by this reference, where Plaintiff actually wrote that to Jo Ann Fielder, and yet nobody at Santa Monica College from May 1997 onwards was curious to find out from Ron Marable if Plaintiff

had reported the sexual assault to him, or to reveal their findings. .

The standard set out in Gebser v. Lago Vista Independent School Dist., 524 U. S. 274—is that a school district may be liable for damages under Title IX where it is deliberately indifferent to known acts of teacher-student sexual harassment. Plaintiff believes that the Santa Monica

Community College District was more than indifferent to known acts of teacher student sexual harassment. The Santa Monica Community College District employees and their written customs and policies actually help to cover up the sexual assault by RL Jones on Plaintiff, and through instigating a retaliation against her, which in each wave– became more oppressive, and that included no due process of law. Please see Exhibit D, attached and incorporated by this reference from Brenda Simmons, Associate Dean Of Admissions and records, to Plaintiff, and note that it was dated 1st April, 1997, April Fools Day, and note that a copy was addressed to Chief Of Santa Monica College Police E Miller. The letter stated I quote, " It has come to my notice that you may have violated the Santa Monica College Student Conduct Code...Failure to meet with me may result in further disciplinary action such as having a hold placed on your records at Santa Monica College. Please see Exhibit E, which was Plaintiff's reply to Brenda Simmons, I quote, "I received your letter of 1st April, 1997, and to my knowledge have not violated the Santa Monica College student conduct code. As I have no idea to what you are referring. Please furnish me with the necessary details. But bnb

The Plaintiff informed an employee of the Santa Monica Community College District ie. Police Officer Ron Marable in November 1996, of the restrained sexual assault battery on her person that occurred in Instructor

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Larry Jones Photo 50 class, in June 1994, and the defamation of her character that was presently occurring in his office in November 1996 and which Marable conveyed to her, but Santa Monica College Police Officer Ron Marable failed to record the Plaintiff's sexual assault complaint against Instructor Larry Jones, who Marable was well acquainted with, saying that the matter was to old to report, and **Police Officer Ron Marable also trivialized Instructor Larry Jones's defamation of character of the Plaintiff by telling Plaintiff that Instructor Larry Jones was, I quote, "Just Joking!"** And of course Marable did not know if Instructor Larry Jones was just joking or not.

Police Officer Ron Marable had some supervisory power over the offending employee, and could have recorded Plaintiff's sexual assault complaint against Instructor Larry Jones if he had wanted to, and also if it was Santa Monica College's policy to allow their Police department to record Instructor sexual assault on a student whether within a year, or within three years for fraud and

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mistake, but Marable said he couldn't report the sexual assault as it was too old to report.

But after Plaintiff did report it for the second time to the administration six months later, Police Officer Marable did come up to the Plaintiff at the vending machines, said, I quote, "There is so much B.S. at this College - I have to get away at weekends!"

In this case Instructor Larry Jones's sexual assault on the Plaintiff, his later defamation of character of the Plaintiff to the police department.for the purpose of forever covering up his sexual assault of plaintiff, and the Police department's failure to record or act on the Plaintiff's sexual assault complaint, and the later fraud

in denying that she had reported it, caused substantial abuse to the Plaintiff.

The recipient Santa Monica College et al, had actual knowledge of their depriving the Plaintiff of due process of law, and equal protection under the law, and that the harassment and discrimination to the Plaintiff became so severe, pervasive, and objectively offensive that it can be said to have deprived the victim of access to the educational opportunities or benefits provided by the school, especially when the recipients banned the Plaintiff from the Santa Monica College without due process of law, five months after she made the sexual assault complaint about Instructor Larry Jones to the Santa Monica College Police Officer Ron Marable which Marable refused to record, and especially as the recipients refused to investigate their police department for obstruction of justice, misrepresentation, fraud, and suggested to Plaintiff to take the matter to court which then led to police brutality, terrorizing and traumatizing the Plaintiff further.

An implied private right of action for money damages exists under Tltle IX, Franklin v Gwinnett County Public Schools, 503 U.S. 60, where funding recipients had adequate notice that they could be liable for the conduct at issue, Pennhurst State School and Hospital v Halderman, 451 US 1, 17 **but a recipient is liable only for its own misconduct.**

The requirement that recipients receive adequate notice of Title IX's proscriptions also bears on the proper definition of "discrimination" in a private damages action. Title IX proscribes sexual harassment with sufficient clarity to satisfy Pennhurst's notice requirement and serve as a basis for a damages action. See Gebser, supra, at 281. Having previously held that such harassment is "discrimination" in the school context under Title IX, The

statute's other prohibitions help to give content to "discrimination" in this context. **The statute not only protects students from discrimination but also shields them from being "excluded from participation in" or "denied the benefits of" a recipient's "education program or activity" on the basis of gender. 20 U. S. C. §1681(a).** It is not necessary to show an overt, physical deprivation of access to school resources to make out a damages claim for **Instructor to student sexual harassment, student to student harassment, and police coverup of instructor sexual aasault and police harassment of student under Title IX**, but **a plaintiff must show harassment that is so severe, pervasive, and objectively offensive, and that so undermines and detracts from the victims' educational experience, that the victims are effectively denied equal access to an institution's resources and opportunities. Cf. Meritor Savings Bank, FSB v. Vinson, 477 U. S. 57, 67.** e) **Additionally, Title IX's regulatory scheme has long provided funding recipients with notice that they may be liable for their failure to respond to non-agents' discriminatory acts. The common law has also put schools on notice that they may be held responsible under state law for failing to protect students from third parties' tortious acts.** Of course, the harasser's identity is not irrelevant. Deliberate indifference makes sense as a direct liability theory only where the recipient has the authority to take remedial action, and Title IX's language itself narrowly circumscribes the circumstances giving rise to damages liability under the statute. If a recipient does not engage in harassment directly, it may not be liable for damages unless its deliberate indifference "subject[s]" its students to harassment, i.e., at a minimum, causes students to undergo harassment or makes them liable or vulnerable

to it. Moreover, because the harassment must occur "under" "the operations of" a recipient, 20 U. S. C. §§1681(a), 1687, the harassment must take place in a context subject to the school district's control.

Where, as here, the misconduct occurs during school hours on school grounds, misconduct is taking place "under" an "operation" of the recipient. In these circumstances, the recipient retains substantial control over the context in which the harassment occurs. More importantly, in this setting, the Board exercises significant control over the harasser, for it has disciplinary authority over its Instructors and Police Officers. Also the School District Board may instruct its Police Department whether the sexual

assault complaint against an instructor should be recorded or not when a student, teacher or employee reports an instructor's sexual assault at its Police Department within the three year statute of limitations for fraud and mistake. And the School District board also dictates how Santa Monica College's human resource office construes what sexual harassment is. The Santa Monica College Board Of Trustees agreed that a one time occurrence of an action of which was not specified, and therefore could even be rape or murder in a different situation at Santa Monica College - is not harassment! Plaintiff first reported Santa Monica College Instructor Larry Jones's sexual assault on her in November, 1996, but Plaintiff had no idea that Santa Monica College was going to cover up her sexual assault complaint against Instructor Larry Jones when she made the complaint to their Police department in November 1996. Police Officer Ron Marable refused to take a written report of Plaintiff complaint as he said the sexual assault

was too old to report, when it was not too old to report. Police Officer Marable found the sexual assault complaint wasn't so old that he did not want to interrogate Plaintiff in detail about it as he was curious - to establish for himself that Plaintiff was reporting that Instructor Larry Jones had sexually assaulted her, which after hearing Plaintiff's description of the sexual assault on her; agreed that it was sexual assault, but Marable still refused to make a written report about it, saying the sexual aasault was too old to report!

Later on Santa Monica College Police Officer Ron Marable denied to Plaintiff's face in March 1998 when she paid a special visit to his Office, that she had ever made a sexual assault complaint to him about Santa Monica College Instructor Larry Jones in November 1996. Plaintiff made that visit in March 1998, because in February 1998 she just received the summary of investigation for her allegations of Instructor Larry Jones's sexual assault on her from Santa Monica College Human Resources Robert Sammis, attached and incorporated by this reference as Exhibit T. Because it was written plainly for Plaintiff to see on Exhibit T, the Summary of Investigation that something was very amiss as the Summary Of Investigation said that Plaintiff first reported the sexual assault of Instructor Larry Jones on May 28th, 1997, when she had been banned from the school without due process of law, when she had in fact first reported the sexual assault six months earlier than this

in November 1996, to Police Officer Ron Marable. Therefore the failure by the educational institution's police department to make a written report of Plaintiff's sexual assault complaint by the Santa Monica College Instructor which Plaintiff reported in November 1996, and which was within the three year

statute of limitations for fraud and mistake under California Civil Procedure 338 (d) at that time, e) and later on the educational institution's police department's denial that Plaintiff had made a sexual assault complaint to Police Officer Ron Marable in November 1996, is an extreme failure to take the appropriate response to teacher to student harassment (i.e. restrained sexual assault battery, defamation of character and intentional infliction of emotional distress) and is a violation of Title IX, and Santa Monica College's inappropriate response with a police department that covered up her sexual assault complaint by denying that she had ever made that complaint to them created an intimidating, hostile offensive and abusive school environment against Plaintiff that violated Title IX of the Educational Amendments of 1972, which in relevant part, prohibits a student from being 'excluded from participation in, be[ing] denied the benefits of, or be[ing] subjected to discrimination under any education program or activity receiving Federal financial assistance, 20 U.S.C. § 1681 (a}, and which also put Plaintiff in extreme danger in Santa Monica County Of Los Angeles Courthouse Santa Monica College, Santa Monica Community College District and the Board Of Trustees also failed to take the appropriate response when they refused to investigate the Plaintiff's complaint against the Santa Monica College Police department once Plaintiff discovered in March 1998 that the Police department had covered up her sexual assault complaint made to Police Officer Ron Marable in November 1996. The original act of the restrained sexual assault by Instructor Larry Jones in his photography class on Plaintiff in June 1994, when the instructor put his erect genitals on her behind also SUBJECTED PLAINTIFF TO VIOLATIONS OF HER LIBERTY INTEREST TO BE FREE FROM SEXUAL HARASSMENT, TO BE FREE FROM INVASION OF PRIVACY, AND INTRUDED

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UPON THE PLAINTIFF'S PERSONAL SECURITY, AND WAS IN VIOLATION OF PLAINTIFF'S SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION. Plaintiff did not give up her right, and made no contract to give up her right to report

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the Instructor's sexual assault on her to the College administration, when she found it very necessary to do so. Nor was Plaintiff's right to report the instructor's sexual assault on her diminished or forfeited just because she did not report the Instructor's sexual assault on her to the Santa Monica College administration at the time it occurred. The act of Instructor Larry Jones's sexual assaulting Plaintiff through no fault of her own, was to create a dilemma for Plaintiff whether she reported his sexual assault on her or not. And when she first reported Instructor Larry Jones's sexual assault on her to Santa Monica College Police - the police department covered up anyway, and retaliated against her for reporting it, by banning her from the College without due process of law and which was promoted by RL Jones and the Police department by Jones's defamation of Plaintiff's character to Defendant Santa monica Police Officer Ron Marable who told Plaintiff about this. And when she reported Jones sexual assault again when she found out that she was banned from the College, this new date was used as the "Official" date that she had first reported Instructor Larry Jones's sexual assault on her, and by changing the date that she first reported the sexual assault from November 25th, 1996, to May 28th, 1997 this disguised Santa Monica College's retaliation against her for reporting Instructor Larry Jones's sexual assault on her, and the first retaliation against her was to ban her from Santa Monica College, without due process of law.

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Santa Monica College did not ban Plaintiff from the college because she had not contacted Brenda Simmons, over a conflict with a student called Mary.

And Plaintiff was the person who was complaining about Mary harassing her and she walked into the Police department in November 1996 to make that complaint, so to ban Plaintiff from Santa Monica College over a conflict with Mary where no police were involved, when Plaintiff had merely made a complaint to stop the girl from harassing her in future, was a very flimsy pretext indeed. But the subtext for banning Plaintiff from Santa Monica College and the necessary defamation of character that this entailed, was because she reported Instructor Larry Jones's sexual assault on her to Police Officer Ron Marable in November 1996.

Later on in Santa Monica College's "investigation" further covered up that the sexual assault had ever occurred, and Plaintiff to her horror - then found out in March 1998, that Santa Monica

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College Police Officer Ron Marable was denying that she had ever reported sexual assault to him.

The denial and cover up by Santa Monica College's police department that Plaintiff had made a complaint to them in November 1996 about the instructor R L Jones's sexual assault on her, served to discriminate against the Plaintiff further than Instructor Larry Jones's initial violations depriving PLAINTIFF OF EQUAL PROTECTION UNDER THE LAW GUARANTEED UNDER THE UNITED STATES CONSTITUTION.

And by this unequal protection under the law, and by depriving Plaintiff of due process of law guaranteed under the 14th Amendment Santa Monica College, Santa Monica Board Of Trustees, Santa Monica College Police Department DISCRIMINATED AGAINST THE

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PLAINTIFF BY CONDONING THE INSTRUCTOR'S VIOLATIONS OF HER LIBERTY INTEREST TO BE FREE FROM SEXUAL HARASSMENT, AND OTHER FORMS OF HARASSMENT - I.E. DEFAMATION OF CHARACTER, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, AND INTRUSIONS ON PLAINTIFF'S PERSONAL SECURITY, and placed her in a precarious situation in County Of Los Angeles Santa Monica Courthouse, where an unfair hearing ensued, where no cross –examination was allowed, which culminated in police brutality and terrorizing and traumatizing the Plaintiff. Further.

Therefore Santa Monica College Police Department, Santa Monica College, and Santa Monica College Community School district responded with more than just deliberate indifference to known incidents of sexual harassment and defamation of character of Plaintiff, and the School District's policy implemented by their Police Department and ordinances only served to cover up the Plaintiff's sexual assault complaint against the Instructor. And when Santa Monica College and Santa Monica College Community District, and the Santa Monica College Board Of Trustees eventually did investigate Plaintiff's sexual assault complaint against the instructor - after Plaintiff made the complaint for the second time to the administration in June 1997, the administration discriminated against the Plaintiff by condoning the restrained sexual assault on the Plaintiff where the Instructor put his erect genitals on her behind in his photography class, through written policies and ordinances that state that if an action (such as restrained sexual assault) only happens one time - and the person (who caused the restrained sexual asasult i.e. Instructor Larry Jones) is put on notice about his action - then his (restrained

sexual assault on the Plaintiff) - is not harassment.

So this Santa Monica College policy or written custom that is attached as Exhibit S, and incorporated by this reference ALSO DISCRIMINATES AGAINST THE STUDENT IN VIOLATION OF TITLE IX, AS WELL AS PLAINTIFF'S LIBERTY INTEREST TO BE FREE FROM SEXUAL ASSAULT AND INTRUSIONS ON HER PERSONAL SECURITY IN A CLASS AT SANTA MONICA COLLEGE, AND WERE IN VIOLATION OF PLAINTIFFS SUBSTANTIVE DUE PROCESS RIGHTS UNDER THE U.S. CONSTITUTION.

And when the Plaintiff eventually discovered on March 17th, 1998, that the Santa Monica College Police Officer Ron Marable is denying that Plaintiff reported the sexual assault to him, and is denying that he did interrogate her about the Instructor's sexual assault in November 1996, and she asks Santa Monica College Superintendent Piedad Robertson (after first going to the Santa Monica Police and Santa Monica City Town Hall) to carry out an investigation of the Police concerning this cover up, and the College Superintendent Piedad Robertson eventually refuses to do so – this refusal to investigate the Santa Monica College Police is in
violation of California Penal code 832.5 (a) which states,: "Each department or agency in this state that employs peace officers shall establish a procedure to investigate complaints by members of the public against the personnel of these departments or agencies, and shall make a written description of the procedure available to the
public." these Santa Monica College District policies discriminate against the Plaintiff in violation of Title IX.

MUNICIPAL VIOLATION OF CIVIL RIGHTS;CONSPIRACY TO DEPRIVE PLAINTIFF OF A FAIR AND MEANINGFUL HEARING.

(County Of Los Angeles, County Of Los Angeles Municipal Court, Judge Laurence D Rubin, 1-10

Caucasian Sheriff's deputies. All Santa Monica College defendants - (But not Jo Ann Fielder and Brenda Simmons)

NO PROCEDURAL DUE PROCESS OF LAW IN SANTA MONICA COURTHOUSE - COUNTY OF LOS ANGELES AND JUDGE LAURENCE RUBIN'S COURTROOM

Then on 6th October, 1998 when Plaintiff took this matter into County Of Los Angeles Court Santa Monica - Plaintiff did not receive Procedural Due Process of Law from Judge Laurence Rubin because a fundamental Requirement of Procedural Due Process Of Law is "the

opportunity to be heard." Grannis v Ordean 234 U.S. 385, 394, "which must be granted at a meaningful time and in a meaningful manner," thereby promoting fairness and accuracy in the resolution of disputes. Fuentes v Shevin, 407 U.S. 67, 92 S.Ct. 1983, 32, L.Ed.2d 556 (1972), 40, 47, 48, 49, 50, guaranteed under the 14th Amendment.

Plaintiff was not granted the opportunity to be heard at a meaningful time and in a meaningful manner in County Of Los Angeles Santa Monica Courthouse. And Procedural Due Process of law did not occur in Judge Laurence Rubin's

Courtroom R, Santa Monica Courthouse, County Of Los Angeles, on October 6th, 1998 for the following reasons:

Elements Of No Due Process Of Law

1. Because the Government Claim requirements had not been disclosed by Judge Laurence Rubin, the Santa Monica Court Small Claims office or by the defendants to Plaintiff, and Plaintiff did not know about the requirements, and thus if the Court or the Defendants had informed Plaintiff of this requirement prior to the hearing, or at the beginning of the hearing, **then there would not have been a hearing, or a judgment entered on October 6th, 1998.**

2. Judge Laurence Rubin restricted Plaintiff from cross-examining Santa Monica College Police Officer Ron Marable, the defendant, and vice-versa at the beginning of the hearing.

3. Judge Laurence Rubin did not, and could not properly cross-examine the defendant Santa Monica College Police Officer Ron Marable as Judge Rubin did not know at that time the details of the case. Therefore even though cross-examination is at the heart of a fair hearing no true cross- examination took place at this hearing!

4. Plaintiff had a tape cassette of a witness, Offune Obiamiwe, who was present at this hearing, and this evidence, the tape of **witness Offune Obiamiwe further substantiated Plaintiff's claim** of the inappropriate behavior on the part of Santa Monica College Instructor Larry Jones towards female students, as in plaintiff's case she had been sexually assaulted, and in Offune Obiamiwe's case she had been approached by instructor larry jones's girlfriend to be photographed by him in the nude Judge Laurence Rubin refused to listen to Plaintiff's tape of Offune Obiamiwe's evidence where she also complained of the instructor Larry Jones's inappropriate behavior towards her at Santa Monica

College. -. Plaintiff still has the court copy of the subpoena for Offune Obiamiwe as neither the court clerk or Judge Laurence Rubin wanted to file it in the court record, even though it states on Exhibit Z104 attached and incorporated by this reference concerning California Small Claims subpoenas that "After the subpoena is served, a Proof of Service form with the orginal subpoena must be filed with the Small Claims Court Clerk before the hearing date. And the Small claims court clerk told me to just bring it to the Court hearing - not to file it with her!

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Plaintiff had wanted to show three character references from instructors at Santa Monica College, attached as Exhibit D1, 2, 3, which at the beginning of the hearing Judge Laurence Rubin said he might look at if he needed to after hearing my testimony and the police officer's testimony. Later on because I still wanted to show these three character references to Judge Laurence Rubin, these three sheets of paper became the catalyst and pretext for police brutality against me as I had exposed Santa Monica College Police Officer Ron Marable's obstruction of justice to Judge Laurence Rubin and his sheriff's deputies/bailiffs, even though Santa Monica College Police Officer still continued to deny this Judge Laurence D Rubin's judgment, attached and incorporated as **Exhibit N,** dated 6th October, 1998, states that "Defendant does not owe any money on plaintiff's claim." But his judgment does not reveal that the Court and the defendant failed to notify Plaintiff about the procedural requirement of filing the California Government Code 910 et seq with them, especially because the Court and defendants never wanted to give the Plaintiff any chance to litigate in a climate where she had the chance to prevail. Instead the Court and the defendants set the Plaintiff up to litigate in a climate of No Due Process which contained Caucasian Sheriff's deputies with records of excessive force, and then defendant and Judge closed the case because of a procedural requirement that had been hidden from the Plaintiff all along i.e. No Government Claim, and which was then even omitted from Judge Laurence D Rubin's judgement as being the reason he closed the case.

NO CROSS EXAMINATION ALLOWED

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II) The County Of Los Angeles Court Judge Laurence Rubin barred Plaintiff from cross-examining the defendant Santa Monica College Police Officer Ron

Marable, and vice versa, at any time during the hearing on October 6th, 1998. So even though Plaintiff alleged that Santa Monica College Police Officer Ron Marable had obstructed justice – Plaintiff was barred from cross examining him because Judge Laurence Rubin had ordered - no cross examination - at the beginning of the hearing.

In Goldberg v Kelly, 397 U.S. 254 (1970) it states, "In almost every setting where important decisions turn on questions of fact, due process requires an opportunity to confront and cross-examine adverse

witnesses. E. g., ICC v. Louisville & N. R. Co., 227 U.S. 88, 93-94 (1913); Willner v.Committee on Character & Fitness, 373 U.S. 96, 103-104 (1963).

Professor Wigmore, commenting on the importance of cross examination, states in his treatise,

5 Wigmore on Evidence (3d. 1940) 1367: "For two centuries past, the policy of the Anglo-American system of Evidence has been to regard the necessity of testing by cross-examination as a vital feature of the law. The belief that no safeguard for testing the value of human statements is comparable to that furnished by cross - examination, and the conviction that no statement (unless by special exception) should be used as testimony until it has been probed and sublimated by that test, has found increasing strength in lengthening experience."

In Greene v. McElroy 360 US. 474 (1959) it states, "Certain principles have remained relatively immutable in our jurisprudence. One of these is that where governmental action seriously injures an individual, and the reasonableness of the action depends on fact findings, the evidence used to prove the Government's case must be disclosed to the individual so that he [she] has an opportunity to show that it is untrue. While this is important in the case of documentary evidence, IT IS EVEN MORE IMPORTANT WHERE THE EVIDENCE

CONSISTS OF THE TESTIMONY OF INDIVIDUALS WHOSE MEMORY MIGHT BE FAULTY or who, in fact, might BE PERJURERS OR PERSONS MOTIVATED BY MALICE, VINDICTIVENESS, INTOLERANCE, PREJUDICE, OR JEALOUSY. We have formalized these protections in the requirements of confrontation and cross-examination. They have ancient roots. They find expression in the Sixth Amendment . . . .This Court has been zealous to protect these rights from erosion. It has

spoken out not only in criminal cases, . . . BUT ALSO IN ALL TYPES OF CASES WHERE ADMINISTRATIVE . . . ACTIONS WERE UNDER SCRUTINY"

NO EVIDENCE ALLOWED – NO WITNESS TESTIMONY ALLOWED –SPOLIATION OF EVIDENCE

III)The County Of Los Angeles Court Judge Laurence Rubin prevented Plaintiff from presenting all her documented evidence, apart from a police report Exhibit C attached, which the Court then - never returned! So it was lucky that the Plaintiff had an extra copy of the police report! The Court Judge Laurence Rubin also prevented Plaintiff from presenting her witness's testimony, and a cassette tape evidence of her witnesses testimony, even though her witness was present in the Courtroom, Please see Exhibit O attached, which is the subpoena for the witness Offune Obiamiwe. Instead the Court allowed Plaintiff's witness to leave. The Sheriff's department also prevented Plaintiff from presenting Plaintiff's character references from Santa Monica College instructors to the Court, Please see Exhibit L1,L2, and L3 using police brutality by Caucasian Sheriffs deputies against Plaintiff to accomplish this goal, Please see Exhibit Z101 and Z102 which are photos of Plaintiff's hand and leg ten days after the occurrence. And also by allowing defendant Santa Monica College Police Officer

Ron Marable to join the police brutality activity towards the end.

JUDGE LAURENCE RUBIN DID NOT KNOW THE DETAILS OF THE CASE AND THEREFORE WAS NOT IN A POSITION TO CROSS –EXAMINE DEFENDANT POLICE OFFICER RON MARABLE

WHO WAS LYING UNDER OATH BY SAYING THAT PLAINTIFF HAD NEVER MADE A SEXUAL ASSAULT COMPLAINT TO HIM ABOUT INSTRUCTOR LARRY JONES IN NOVEMBER 1996

III) The Court, Judge Laurence Rubin, was not in a position to properly cross-examine Santa Monica College Police Officer Ron Marable as he was unaware of all the fine details of the case – at least on October 6th, 1998. Only Plaintiff was in a position to cross-examine Santa Monica college Police Officer Ron Marable in a thorough manner, as she was the victim of his misrepresentation and deceit, and Plaintiff was the only person in a position to bring the inconsistencies in Marable's testimony to light. Plaintiff had typed up questions in preparation for cross examination on October 6th, 1998, but was stopped from asking those questions, and

cross-examining him by Judge Laurence Rubin of County Of Los Angeles Court.

DEFENDANT POLICE OFFICER RON MARABLE CONCEALED FROM PLAINTIFF AND THE COURT AT THE BEGINNING OF THE HEARING THAT PLAINTIFF HAD NOT MET THE CALIFORNIA GOVERNMENT CLAIM REQUIREMENT – AND THERE WAS TIME FOR THE PLAINTIFF TO BE INFORMED OF THE CALIFORNIA GOVERNMENT CLAIM REQUIREMENT AND TO MEET IT.

IV) Defendant Santa Monica College Police Officer Ron Marable who was the only Santa Monica College defendant to appear, and who represented all the other named Santa Monica College defendants on that case - that day, did not disclose that the California Government Claim requirement had not been met by Plaintiff- at the beginning of the hearing on October 6th, 1998. (Plaintiff was unaware that there was a Government Claim requirement at that time!)

Defendant Santa Monica College Police Officer Ron Marable concealed the Government Claim Requirement from plaintiff for the illegitimate purpose of continuing and controlling the process, using it to surprise and disrupt the hearing, at an opportune moment, and so the California Government Claim requirement (which had not been met by Plaintiff because she was uninformed about it), was used as a device to terminate this hearing and any further litigation against the defendants, by making it seem that a legitimate and fair hearing had taken place when it had not!

THE CALIFORNIA GOVERNMENT CLAIM REQUIREMENT IS NOT SUPPOSED TO BE HIDDEN BY -OR USED BY DEFENDANTS AND COUNTY OF LOS ANGELES JUDGE - AS A DEVICE TO STOP PLAINTIFF FROM EVER LITIGATING IN A PROCESS THAT PLAINTIFF HAS THE POSSIBILITY TO PREVAIL IN – ESPECIALLY AS PLAINTIFF STILL HAD TIME TO FILE THE CALIFORNIA GOVERNMENT CLAIMS AGAINST DEFENDANTS.

The California Government Claim requirement was not designed to be used as a device by the defendant or the Santa Monica, County Of Los Angeles Court to nullify, neutralize or disguise the right for Plaintiff to have Due Process of Law, an opportunity to litigate in a process that Plaintiff has the possibility to prevail in, after Government Claims requirements have been met,

whether a County Of Los Angeles court or any other court in California. And on October 6th, 1998, Plaintiff had no such possibility, as she had not been informed about the Government claim requirement by either the court or the defendants, and thus was not in a position to have met the requirement.

NO CURIOSITY FROM JUDGE LAURENCE RUBIN AS TO WHETHER THE TIME LIMIT TO FILE THE CALIFORNIA GOVERNMENT CLAIM AGAINST DEFENDANTS HAD EXPIRED!

It was at least half an hour into the hearing before defendant Santa Monica College Police Officer Ron Marable revealed obscurely that the Government Claim requirement had not been met to Judge Laurence D Rubin by saying,"And There's No Claim." Judge Laurence D Rubin understood immediately and closed the hearing because of it.

And when defendant Santa Monica College Police Officer Ron Marable said, "And There's no claim," Judge Laurence D. Rubin was not at all curious to ask Plaintiff if a (Government) Claim had been filed, and didn't stop to explain to Plaintiff what a (Government) Claim was!

Judge Laurence Rubin also didn't ask when the cause of action accrued in order to establish whether Plaintiff still had time to file a government claim, against defendants. When in fact she was still within the year statute of limitations to meet the requirement, but the Court never inquired if the one year limit had passed, nor did the Court offer her an opportunity to meet the California Government Claim requirement by setting the hearing to a later date, and thus PLAINTIFF DID NOT RECEIVE A HEARING OR THE PROCESS THAT WAS DUE TO HER IN SANTA MONICA COUNTY OF LOS ANGELES COURTHOUSE AS SHE NEVER GIVEN THE

OPPORTUNITY TO HAVE A HEARING WHERE SHE WOULD BE IN A POSITION TO PREVAIL.

CALIFORNIA GOVERNMENT CLAIM REQUIREMENT AND ONE YEAR TO FILE AFTER ACCRUAL OF THE CAUSE OF ACTION

V1) On October 6th, 1998, Plaintiff had time to file a government claim against defendants as the accrual for the cause of action had occurred on March 17th, 1998 which is when Plaintiff confronted Police Officer Ron Marable in his office, and so Plaintiff had a year to file a government claim under California Government Claim

under 911.2 911.4 (a) (b), 911.6 (b) (1) – which state:

911.2. A claim relating to a cause of action for death or for injury to person or to personal property or growing crops shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than six months after the accrual of the cause of action. A claim relating to any other cause of action shall be presented as provided in Article 2 (commencing with Section 915) of this chapter not later than one year after the accrual of the cause of action.

911.4. (a) When a claim that is required by Section 911.2 to be presented not later than six months after the accrual of the cause of action is not presented within such time, a written application may be made to the public entity for leave to present such claim.(b) The application shall be presented to the public entity as provided in Article 2 (commencing with Section 915) of this chapter within a reasonable time NOT TO EXCEED ONE YEAR AFTER THE ACCRUAL OF THE CAUSE OF ACTION and shall state the reason for the delay in presenting the claim. The proposed claim shall be attached to the application. In computing the one-year period under this subdivision, time during which the person who sustained the alleged injury, damage, or loss is a minor shall be

counted, but the time during which he is mentally incapacitated and does not have a guardian or a conservator of his person shall not be counted.

911.6. (a) The board shall grant or deny the application within 45 days after it is presented to the board. The claimant and the board may extend the period within which the board is required to act on the application by written agreement made before the expiration of the period.

(b) The board shall grant the application where one or more of the following is applicable:

(1) The failure to present the claim was through mistake, inadvertence, surprise or excusable neglect and the public

(2) entity was not prejudiced in its defense of the claim by the failure to present the claim within the time specified in Section 911.2.

ABUSE OF PROCESS

The defendants of this case Santa Monica College, Santa Monica College Community District, Santa Monica College Police department and Santa Monica College Police Officer Ron Marable (hereinafter Santa Monica College defendants) used the legitimate process of the Santa Monica, County Of Los Angeles court hearing for an illegitimate ulterior purpose by conducting the

hearing knowing Plaintiff had no chance of prevailing. The defendants used the California Government Claim requirement, knowing that Plaintiff had not met that requirement, and intentionally concealed the requirement from the Plaintiff at the beginning of the hearing in order to prevail because they knew that without Plaintiff having met that requirement - she had no chance of prevailing. The California Government claim requirement 910 et seq, was not designed to be used as a device, to

permit the defendant Santa Monica College Police Officer Ron Marable, Santa Monica College, Santa Monica College Police Department and Santa Monica College District, to secure an advantage over, the Plaintiff, by allowing a process to continue, one that the Plaintiff could never prevail in - in that the Plaintiff had not met the California Government claim requirement on October 6th, 1998 and was not advised by the court – Judge Laurence Rubin that a Government Claim was required for this hearing.

The California Government Claim requirement was hidden in bad faith, at the beginning of the hearing, by the defendant (s), and was used later on by the defendant(s) in that same process as a defense and device to close the hearing, a device with which Judge Laurence D Rubin complied with.. The defendants, concealed the California Government Claim requirement at the beginning of the hearing on October 6th, 1998, for the illegitimate purpose of continuing and controlling the process, using it to surprise and disrupt the hearing, at an opportune moment, and as a device to terminate any further litigation against the defendants, by making it seem that a legitimate and fair hearing had taken place, when in fact - it had not.

The legitimate process of the Court was also used for an illegitimate ulterior purpose to coerce Plaintiff to stop proceedings against them for obstruction of justice and other causes of action. That is why Caucasian Sheriffs deputies were in the Courtroom who were trained in martial arts and who had been trained to punch softly and who are most likely to be famous four, and have records of excessive force – and that is why they are now being hidden. The County Of Los Angeles, Santa Monica Courthouse hearing on October 6th, 1998, was used as a threat and a club on the Plaintiff literally, and was a form of extortion, and was a perversion of the process after it

was issued, as the defendants knew that Plaintiff had no chance of prevailing that day.

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Judge Laurence Rubin just quickly closed the case, as opposed to continuing the case to another date- which is what he would have done if he were trying to conduct a fair hearing!

BAD FAITH AND NO FAIR DEALINGS IN THAT THE PROCESS CONTINUED WITHOUT DEFENDANT OR COURT INFORMING PLAINTIFF THERE WAS A CALIFORNIA GOVERNMENT CLAIM REQUIREMENT AT THE BEGINNING OF THE HEARING.

Also the process continued without defendant Santa Monica College Police Officer Ron Marable or Judge Laurence Rubin informing Plaintiff that there was a California Claim requirement, and when the defendant Santa Monica College Police Officer Ron Marable used this as a defense half an hour into the proceeding, the Court instead of inquiring whether the incident or accrual of the cause of action occurred within the time limit to file a government claim – so as to give Plaintiff a chance to file the claim and continue the proceeding to another date to be fair to the Plaintiff, as the Plaintiff usually only has one chance in Small Claims anyway, Judge Laurence Rubin terminated the hearing, with a judgment that did not reflect that the hearing had been terminated because the California Government Claim had not been met, and also his judgment did not reveal any rule of law concerning Plaintiff's emotional injury complaint against the defendants, and also his judgment did not reflect that he closed the hearing - because Police Officer Ron Marable had just said, I quote, "And there's no claim!"

VIOLATION OF 42 USCS § 1985 (2) Obstructing Justice, intimidating party, witness or juror.

(Santa Monica College et al, etc, defendant RL Jones, defendant Police Officer Ron Marable)

APPENDIX F

If two or more persons in any State or Territory conspire to deter, by force, intimidation, or threat, any party or witness in any Court of the United States, from attending such court, OR FROM TESTIFYING TO ANY MATTER PENDING THEREIN, FREELY, FULLY, AND TRUTHFULLY, OR TO INJURE SUCH PARTY OR WITNESS IN HER PERSON OR PROPERTY ON ACCOUNT OF HIS HAVING SO ATTENDED OR TESTIFIED, OR TO INFLUENCE THE VERDICT, PRESENTMENT or indictment of any grand or petit juror in any such court, or to injure such juror in his person or property on account of any verdict, presentment or indictment lawfully assented to by him, or of his being or having been such juror; **or if two or more persons conspire for the purpose of impeding,**

hindering, obstructing, or defeating, in any manner, the due course of justice in any State or Territory, with intent to deny any citizen the equal protection of the laws, or to injure him or his property for lawfully enforcing, or attempting to enforce, the right or any person or class of persons, to the equal protection of the laws.

Plaintiff alleges Defendant Santa Monica College Police Officer Ron Marable, R L Jones and Santa Monica College et al, in the State Of California conspired to deter, by force, intimidation, and threaten Plaintiff and, defendant Offune Obiamiwe from testifying as a witness at County Of Los Angeles Santa Monica Courthouse for Plaintiff's lawsuit against defendants R L Jones and Santa Monica College et al, freely, fully, and truthfully and defendant Offune Obiamiwe became a hostile witness towards Plaintiff instead, even though she had earlier complained of RL Jones inappropriate behavior towards her and other students to Cary Childress an instructor in a perspective class. in January 1998.

APPENDIX F

On October 6th, 1998, Defendant Offune Obiamiwe sat with defendant Santa Monica College Police Officer Ron Marable prior to the hearing in Santa Monica Courthouse, and when asked to give evidence concerning defendant RL Jones inappropriate behavior towards women she began to defame Plaintiff's character to the Court and Sheriffs deputies instead, by volunteering false information not part of the proceeding.

Please see attached information about what happens to people in situations such as this by noted social psychologist Stanley Milgram and articles on Obedience to Authority, attached as Exhibit Z109, Z110, Z111, about defendants who work in the scope of their employment, and fellow students who take the easiest and safest, route out of courtrooms for themselves.

" FOR MANY PEOPLE OBEDIENCE IS A DEEPLY INGRAINED BEHAVIOR TENDENCY, INDEED A POTENT IMPULSE OVERRIDING TRAINING IN ETHICS, SYMPATHY AND MORAL CONDUCT. The dilemma inherent in submission to authority is ancient, as old as the story of Abraham, and the question of whether one should obey when commands conflict with conscience has been argued by Plato, dramatized in Antigone, and treated to philosophic analysis in almost every historical epoch. Conservative philosophers argue that the very the very fabric of society is threatened by disobedience, WHILE HUMANISTS STRESS THE PRIMACY

OF THE INDIVIDUAL CONSCIENCE." (especially after having kept quiet about an Instructor's sexual assault for two and a half years)

Milgram goes on to say " The essence of obedience is that a person comes to view him or herself as the instrument for carrying another person's wishes and he therefore no

longer regards himself as responsible for this actions. Once this critical shift of viewpoint has occurred, all of the essential features of obedience follows. The most far reaching consequences is that the person feels responsible to the authority directing him but feels no responsibility for the content of the actions that the authority prescribes. Morality doesn't disappear - it acquires a radically different focus; the subordinate person feels shame or pride depending on how adequately he has performed the actions called for by authority."

Noted social psychologist Stanley Milgram also said that, I quote, "The problem of obedience is not wholly psychological. The form and shape of society and the way it is developing have much to do with it...Even Eichmann was sickened when he toured concentration camps, but he had only to sit at a desk and shuffle papers. At the same time the man in the camp who actually dropped Cyclon B into the gas chambers was able to justify his behavior on the ground that he was only following orders from above. Thus there is a total fragmentation of the total human act, no one is confronted with the consequences of his decision to carry out the evil act. **THE PERSON WHO ASSUMES RESPONSIBILITY {JUST AS THE CAUCASIAN SHERIFF'S DEPUTIES IN JUDGE LAURENCE RUBIN'S SANTA MONICA COUNTY OF LOS ANGELES COURTROOM) HAVE** EVAPORATED. PERHAPS THIS IS THE MOST COMMON CHARACTERISTIC OF SOCIALLY ORGANIZED EVIL IN MODERN SOCIETY.

Defendant Offune Obiamiwe acted with actual malice in making a statement in the knowledge that it was false, and in reckless disregard for the truth, and she may have helped to provoke animosity in the Caucasian Sheriff's deputies towards Plaintiff by making that statement against Plaintiff in the Courtroom.

APPENDIX F

As Defendant Offune Obiamiwe made a false and defamatory statement against the Plaintiff publicizing her statement to the Court and all the Sheriff's deputy bailiffs in the courtroom, **and yet in April 1998 Offune Obiamiwe had told Plaintiff to subpoena her for a court hearing she may**

have become part of the conspiracy to obstruct justice and deprive Plaintiff of rights under 42 USCS § 1983 § 1985 (2) (3) , and instead of giving evidence about the Instructor's inappropriate behavior against women that she too had experienced, worked against the Plaintiff by defaming her character in front of the Court.

It is also possible that Offune Obiamiwe may have defamed the Plaintiff's character maliciously, in the knowledge there had been obstruction of justice concerning Plaintiff's sexual assault complaint as Plaintiff had told her about this, and thus was apprised and had reason to fear a backlash against herself under the Color Of State Law, **and so defendant Offune Obiamiwe aligned herself with the color of State Law against the Plaintiff, to defame her character in the courtroom.**

VIOLATION OF 42 USCS § § 1985 (3)

(Against All Named Defendants)

42 USCS 1985 (3) Depriving persons of rights or Privileges., states if two or more persons in any state or territory conspire, or go in disguise on the highway or freeway, or on the premises of another, for the purposes of depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws, or of equal privileges and immunities under the laws, or for the purpose of preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such state or Territory the

equal protection of the laws, in any case of conspiracy set forth in this section, if one or more persons engaged therein do, or cause to be done, any act in furtherance of the object of such conspiracy, whereby another is injured in his person or property, or deprived of having and exercising any right or privilege of a citizen of the United States, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

Santa Monica College defendant Ron Marable was conscious that he had not taken down Plaintiff's complaint about Instructor Larry Jones's sexual assault on her in November 1996. And was also conscious when he interrogated Plaintiff about Instructor Larry Jones's sexual assault on her in November 1996, as he was curious to find out if Plaintiff was reporting sexual

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assault and he wanted to know all the details. Therefore Santa Monica College Police Officer Ron Marable was conscious that he had interfered with the law - by not giving Plaintiff equal protection under the law.

Because Police Officer Ron Marable did not write down Plaintiff's sexual assault complaint against Instructor Larry Jones which was within the three year time limit for fraud and mistake under CCP 338 (d) and Police Officer Ron Marable and/or the policy of Santa Monica college, was to abridge the privileges or immunities of Plaintiff, by denying her equal protection of the laws, and as Marable did act on the premise of another i.e. Larry Jones, and had taken in the premise of another ie. Instructor Larry Jones who had defamed Plaintiff's character to Police Officer Ron Marable, as Police

APPENDIX F

Officer Ron Marable told Plaintiff about instructor Larry Jones's premise about her which prompted Plaintiff to report Instructor Larry Jones's sexual assault of her to Police Officer Ron Marable.

This abridging of plaintiff's privileges and immunities in not taking down plaintiff's sexual assault complaint was also compounded by defendant Ron Marable later denying - that she had ever made the complaint to him.

Defendant Ron Marable was also conscious that he had obstructed justice and abridged Plaintiff's privileges and immunities when he denied to the Plaintiff in March 1998 to her face, that Plaintiff had ever made the sexual assault complaint to him in November 1996.

In March 1998 Police Officer Ron Marable, kept repeating over and over again to Plaintiff, "I'm not biased! I'm not biased!" and eventually rushed out of his office saying to the Plaintiff as he ran into the street, I quote, "I haven't got time to waste on you!" Police Officer Ron Marable then left Plaintiff in his office at Santa Monica College Police Department.

And Private discrimination is inequality before the law, when there is manipulation of the law and its agencies, that sanction or give sanctuary to that private discrimination. Defendant Ron Marable was conscious of influencing the law, and was conscious that he had obstructed and interfered with the law. He did know defendant Instructor Larry Jones well, well enough to say that Instructor Larry Jones was just joking when Instructor Larry Jones had defamed Plaintiff's character to him.

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Police Officer Ron Marable came up to the Plaintiff at the vending machines after she had reported the sexual assault for the second time to Santa Monica College in

May 1997 - and told her, "There is so much BS. at Santa Monica College that I have to get away at weekends"

Santa Monica College defendants, Instructor R L Jones, Santa Monica College Police Officer Ron Marable, Santa Monica College Police, Santa Monica College, Santa Monica College Community District, conspired, and went in disguise, on the premises of Santa Monica College Instructor Larry Jones (who had performed a restrained sexual assault on Plaintiff in his Photo 50 class) and Santa Monica College Police Officer Ron Marable (who had not recorded Plaintiff's sexual assault complaint against Instructor RL Jones) To deprive Plaintiff of equal protection of the laws, and equal privileges and immunities under the laws, including but not limited to:

1. The right to be free from a restrained sexual assault or any serious harassment in a classroom setting, even if the restrained sexual assault only occurs one time.

2. The right to report to a College Police Department or any Police Department restrained sexual assault by a College Instructor - within the three year statute of limitations for fraud and mistake under California Civil Code of Procedure 338 (4), and have that report written down, and remembered!

3. The right to be secure in their person from any invasion by anyone - including instructors.

The object of the conspiracy was to hide Santa Monica College Instructor Larry Jones's sexual assault of plaintiff, and avoid any culpability and liability. Plaintiff reported the assault to defendant Ron Marable, who refused to take a report and said the sexual assault was too old to report, and so through his words and action Marable did cause to be done, an act in furtherance of the object of the conspiracy, whereby Plaintiff was ultimately

injured in her person and her property and was deprived of having and exercising any right or privilege of a citizen of the United States.

Santa Monica College and/or Santa Monica College Police department and/or Santa Monica College Police Officer Ron Marable and/or R L Jones conspired to manipulate, and obstruct justice, and thus denied Plaintiff Equal Protection of the laws. When Plaintiff later reported the sexual assault again to the Santa Monica College administration they ended the investigation

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by stating a one time occurrence (of restrained sexual assault/offensive battery in a photo class) where the person (R.L. Jones) was put on notice (by Angela Bernhardt) is not harassment, (i.e.restrained sexual assault/offensive battery) Also the harassment by now had occurred more than one time, but took a different form.

After defendant Santa Monica College police officer Ron Marable had interrogated her about the sexual assault yet had obstructed justice by not taking down her complaint, he would on occasion come up to Plaintiff at Santa Monica College airport campus, and say Hello Ms. Bernhardt. Marable's emphasis on the word Ms. ridiculed Plaintiff, because he had covered up her sexual assault complaint by not making a written report about it and then by later denying she had ever made the complaint to him.

Because of Marable's cover up of Plaintiff's complaint, and because of his mocking Plaintiff when he spoke to her and in his emphasizing the word Ms. the requisite animus is there in Marable's accentuation of the word "Ms" which he said in

contempt for Plaintiff's class, in that he had deprived Plaintiff of the equal enjoyment of legal rights, and equal protection under the law, because of her status as a Ms. i.e. a female student who had reported sexual assault to him by a Santa Monica College Instructor.

And there are many overt acts in furtherance of a conspiracy because Santa Monica College Police officer Ron Marable covered up plaintiff's complaint against defendant R L Jones for sexual assault on her person, and intentionally obstructed the course of justice by misrepresenting the Statute to the plaintiff, and by informing her that the sexual assault matter was too old to report, when it was not too old to report, and by not taking down a written report about defendant R L Jones sexual assault of Plaintiff, when Plaintiff reported it to Defendant Marable in November 1996. In doing these acts defendant Ron Marable was at all times acting under color of state law, and his overt act to obstructing the course of justice, and his intentional misrepresentation of the Statute to the Plaintiff occurred in furtherance of a conspiracy to deprive Plaintiff of Civil Rights and Equal Protection Of The Laws. All defendants intended to discriminate against the plaintiff and acted under color of state law and authority, and all acts done in furtherance of conspiracy resulted in injury to plaintiff's person,

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and prevented her from exercising right and privilege of United States Citizen to equal protection under the laws.

The retaliation against the Plaintiff by banning her from the school for no good reason, and without due process of law, the discriminatory Santa Monica College written policy custom of a one time action is not harassment even though that harassment was that Instructor larry jones surprised Plaintiff by putting his hard genitals on Plaintiffs behind in a class at Santa

Monica College when she could not move out of his attack on her - the threats to Plaintiff by Santa Monica College Chief Of Police Eileen Miller, the threats of the police to Plaintiff by Robert Sammis of Human Resources towards Plaintiff when she visited President Piedad Robertson, the refusal of either the Santa Monica College Police department or the college President to investigate defendant Santa Monica College Police Officer Ron Marable, the assigning of the case to **Judge Laurence D Rubin, his aversion to cross-examination, his avoidance of even looking at Plaintiff's character references from Instructors, at Santa Monica College, please see Exhibit L1, L2, and L3 the character references for Plaintiff from those instructors attached and incorporated by this reference. .**

The spoliation and loss of evidence by Judge Laurence Rubin - the police report Exhibit C attached, the court subpoena not being accepted, the witness being dismissed, the concealment of the California Government Claim requirement, the process being continued even though Plaintiff had no chance of prevailing, the Judge not offering to continue the proceeding when Plaintiff had submitted the required California Government Claim, the assault and battery on the Plaintiff in the courtroom, with white sheriffs who now are hidden because of their records of excessive force, Sheriff Terry January being included instead of the Caucasian Sheriff's deputies, Sheriff Sherman Moten who did his very best to diminish Plaintiff's complaint about the sheriff's by not recording the Plaintiff's full complaint on the official form, see Watch Commanders report **Exhibit Z117,** and white paper attached which are Sherman Moten's notes that he refused to put on the Watch Commanders report and that he refused to sign, **Exhibit Z118.**

APPENDIX F

Sheriff Lee Baca's refusal to allow Plaintiff to look at mug shots of Caucasian Sheriff's

deputies with records of excessive force and please see Plaintiff's letter to him dated 29th, January, 1999 exhibit Z118, attached and incorporated by this reference where I complained that as the complaint against the Caucasian Sheriff's deputies had not been properly taken down by Sheriff Sherman Moten Plaintiff was concerned that there would not be a proper investigation because if the complaint was not taken down completely how could there be a proper investigation - his abrupt closing of the investigation, please see exhibit P, attached and incorporated by this reference, which amply satisfy the requirement of acts done in furtherance of the conspiracy. Finally, the Plaintiff who was target of that conspiracy - alleges trauma and extreme personal injury resulting from all these acts.

SYSTEMATIC PATTERN OF PLANNING ONE STEP AHEAD

If it is true that Santa Monica College were ready for Plaintiff's lawsuit in February 1998 having just closed the investigation of the Instructor's sexual assault and were ready with a Motion To Quash Service Of Summons And Complaint in February, 23rd, 1998, see proof of service Exhibit Z104, attached and incorporated by this reference, and that Motion to Quash existed prior to Plaintiff ever filing a lawsuit against them, then the fact that Santa Monica college were ready in advance for a lawsuit is more evidence that the college-had a system in place! This systematic pattern of the college planning one step ahead, may have also occurred when the Santa Monica College policeman Ron Marable wouldn't take a written sexual assault report about the instructor's sexual assault of Plaintiff, and then later denied we ever had the conversation. This systematic pattern of Santa Monica

College planning one step ahead may also have occurred by arranging that the Santa Monica Courthouse Case be heard by Judge Laurence Rubin, and by arranging that the Santa Monica Courtroom be populated with White Sheriff's Deputies with records of excessive force on October 6th, 1998, who are now being hidden by the Santa Monica Courthouse and the Sheriff's department. Please see my letter to Candace C Cooper presiding Judge Of Santa Monica Courthouse dated March 1999, attached as Exhibit Z103. And even if the date of service, February 23rd, 1998, on Santa Monica College's Proof Of Service of Motion To Quash exhibit Z104, to Plaintiff is just a typing error, it still coincides with Plaintiff

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providing additional evidence of the instructor's inappropriate behavior towards female students, and Santa Monica College closing their investigation of the instructor's sexual assault on Plaintiff – in the instructor's favor, and not including the new evidence in their investigation Summary Exhibit T, dated February 9th, 1998!

Plaintiff now believes that Santa Monica College was prepared for Plaintiff filing a lawsuit against them in February 1998 and had a Motion To Quash Summons and Complaint ready and waiting - even at that time, because **they had just closed the investigation on the instructor's sexual assault on Plaintiff** in the instructor's favor. The other crucial time when Plaintiff might have instigated a lawsuit against Santa Monica College, was after Plaintiff was barred from taking classes at Santa Monica College without Due Process Of Law from April through May 1997, in retaliation for Plaintiff reporting the sexual assault to the Santa Monica College Police Officer Ron Marable, and also after March 17th, 1998, the dates Plaintiff found out that Santa Monica College Police

Officer Ron Marable covered up and was denying that Plaintiff had reported the instructor's sexual assault to him. Plaintiff believes that Santa Monica College created a diversion after depriving Plaintiff of her civil rights in April and May 1997, after banning her from taking classes without due process of law, in that they decided to investigate the instructor's sexual assault of Plaintiff, to make it seem as if they were interested in the violation but the investigation was arbitrary, it omitted evidence, distorted evidence and was a cover up - a diversion and red herring, to take Plaintiff away from the fact that Plaintiff had been deprived of Civil Rights, had not been given due process, and had not been given equal protection under the law, in November 1996, and April and May 1997.

The systematic way Santa Monica College and et al and their employees have operated in advance - all the way along in this case- to cover up crime and protect their own interests - leads Plaintiff to this conclusion. It is also conceivable as Santa Monica College knew very well that Plaintiff knew that she had been deprived of Civil Rights in April and May 1997 when Santa Monica College barred plaintiff from taking classes without Due Process Of Law as Plaintiff wrote many letters to them at the time, about this . Attached is my letter to Santa Monica College's administration dated 10th, July, 1997, Exhibit Z106 through Exhibit Z107 , complaining of the lack of Due Process.

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Plaintiff believes - that Santa Monica College et al were ready for a lawsuit from me **after February 9th, 1998** because the Santa Monica College administration had just denied and closed their in-house investigation concerning Santa Monica College's instructor Larry Jones's sexual assault of me, and their summary of the investigation to me dated February, 9th, 1998, attached

and incorporated by this reference as **Exhibit I was sent** out to me only days before February, 23rd, 1998.

I had previously received a denial of the sexual assault claim in October 1997, please see Exhibit J attached and incorporated by this reference, where Joanne Fielder for Santa Monica college's Human resources office states, " In accordance with paragraph 2B of Santa Monica Community College District's (SMCCD) Administrative Regulation 4112f, Unlawful discrimination, Affirmative Action, Title IX and Sexual Harassment complaint procedures for job applicants, employees and students, an investigation was conducted into your allegations of sexual harassment...the results of the investigation determined there were no violations of the district's policy against lawful discrimination, to include sexual harassment, and a one (1) time occurance of an action, where the individual was put on notice about the incident does not constitute harassment. A copy of the complete investigation is on file within the Human Resources Office." Exhibit J was not the summary of the investigation, or the closure of the investigation.

Attached is **Exhibit Z119** a copy of **Santa Monica College Community District's local ordinance AR4112.2f 1 through 5 concerning Unlawful Discrimination, Affirmative Action, Title IX and sexual harrassment complaint procedures for job applicants, employees and students. At the end of this ordinance there is a reference to California Code Of Regulations (Administrative Code0 Title 5, Section 59307, 59328, 59334, 39336, 39338, 39340. In the entire ordinance AR4112.2f** it does not state **"and a one (1) time occurence of an action, where the individual was put on notice about the incident does not constitute harassment." So Plaintiff now does not know which law Joanne Fielder Of Human Resources Office is**

referring to as in her letter it was given no reference and thus seemed to be part of AR4112.2f, which was referenced. And from Jonanne Fielder's letter to Plaintiff in October 1997 that did not have , a copy of Santa Monica College's ordinance AR4112.2f attached to it, Plaintiff understood the Santa Monica College District Ordinance AR4112.2f included this part - **"and a one (1) time**

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occurence of an action, where the individual was put on notice about the incident does not constitute harassment.' And even though it is clear to the Plaintiff now that the Santa Monica College Community District ordinance does not include this extra part, it was added to the ordinance by Jo Ann Fielder Of Santa Monica College for Santa Monica College even though it is not written as part of that ordinance. **Plaintiff went to Joanne Fielder in October 1997 to complain about her letter and denial of Plaintiff's sexual assault complaint, Plaintiff complained to Joanne Fielder about the unfairness of this logic, and gave her an example by saying - "What if someone were raped? - Are you saying that a one (1) time occurence of a rape, where the individual was put on notice about the rape does not constitute rape. In Plaintiff's case the sexual assault was an involuntary restrained sexual assault/battery.** Also if Joanne Fielder Of Santa Monica College's human resources office did not believe that Instructor Larry Jones sexually assaulted Plaintiff in his class then why did Joanne Fielder even state that **"and a one (1) time occurence of an action, where the individual was put on notice about the incident does not constitute harassment." especially as it is not even in the Santa Monica College Administrative Regulation Personnel ordinance AR4112.2f, and is not part of any law that Plaintiff is aware of.**

APPENDIX F

Santa Monica Community College District's (SMCCD) Administrative Regulation 4112f, where it states, "and a one (1) time occurrence of an action, where the individual was put on notice about the incident does not constitute harassment." Should be made facially invalid if it is not drawn with sufficient clarity and definiteness

to inform a person of ordinary intelligence what actions are proscribed, as a vague statute regulating harassment, where the nature of harassment is not made clear, and which voids harassment if it only happens one time is fundamentally unfair, as it violates both due process and equal protection of the laws.

A law is invalid if its purpose or effect is to place a substantial obstacle in the path of person receiving equal protection of the laws. SMCCD's Administrative Regulation 4112f is Unconstitutional and burdens a significant liberty interest of Plaintiffs and other students,

teachers, and employees because it states that a one time occurrence of an action, where the individual was put on notice about the incident does not constitute harassment. SMCCD's Administrative Regulation 4112f does not make clear the nature of that action that does not constitute harassment when it only happens one time. In this case the action was a restrained offensive battery by an instructor on his student, but that action in another case could be rape. As the action that happened only one time was a restrained battery on Plaintiff's person the action invaded Plaintiff's right to privacy as far as her body. The Roe v Wade Court found a right to privacy in the fourteenth amendment's guarantee of personal liberty. A restrained battery is an invasion of privacy and violates Plaintiff's right to privacy found in the fourteenth amendments guarantee of personal liberty and the restrained battery is still an invasion of privacy even

if it only happens one time. There is a constitutional right of privacy in the fourteenth amendments guarantee of personal liberty, so that if there is an invasion of privacy through a restrained battery the constitutional right to privacy limits the power of the government to regulate that invasion of privacy by saying that a one time occurrence of an action i.e. restrained offensive battery is not harassment if it only happened one time, and by implication not an invasion of the fundamental right to privacy.

DEFAMATION OF CHARACTER

(Offune Obiamiwe individually)

In January 1998, Offune Obiamiwe an ex-photography student began to complain loudly about photography Instructor Larry Jones's behavior towards female students in Cary Childress's Perspective class.

Offune Obiamiwe asked in January 1998, if it was ethically right (for (defendant) Instructor Larry Jones) to solicit and photograph his students in the nude, and said that she did not understand how (defendant) Mr. Jones did not get into trouble at Santa Monica College for dating another student, Marissa who was in the photography department at that time.

Defendant Santa Monica College student Offune Obiamiwe witnessed defendant Santa Monica College Instructor R L Jones's inappropriate behavior towards female students in 1994/5, and

announced her concerns publicly in a class at Santa Monica College in January 1998, which Plaintiff taped.

In April 1998, defendant Offune Obiamiwe told Plaintiff she had been approached by defendant R L Jones student girlfriend Marissa, see attached photograph of Marissa Exhibit R incorporated by this reference, to do nude photography for defendant RL Jones at Santa Monica College in 1994/5, and had declined the invitation.

APPENDIX F

Defendant Offune Obiamiwe suggested that Plaintiff subpoena her for a future Court hearing, even though defendant Offune Obiamiwe did not want to give her evidence to Santa Monica College telling Plaintiff it wouldn't help because she already knew, as Plaintiff had already told her that Santa Monica College Police Officer Ron Marable had obstructed justice by hiding and not recording Plaintiff's sexual assault complaint concerning defendant Instructor R L Jones. So defendant Offune Obiamiewe told Plaintiff she thought the same thing would happen to her, if she gave her evidence to Santa Monica College.

Also Defendant Offune Obiamiwe gave no indication to Plaintiff, that she did not believe Plaintiff as far as the sexual assault and obstruction of justice, **instead defendant Offune Obiamiwe suggested to Plaintiff that Plaintiff subpoena her for a future Court hearing in April 1998, which she later reneged on, and became a hostile witness instead.**

In September 1998 Plaintiff subpoenaed Offune Obiamiwe for Plaintiff's court hearing

Defendant Offune Obiamiwe sat with defendant Santa Monica College Police Officer Ron Marable outside the courtroom prior to the hearing, and when the hearing begain she defamed Plaintiff's character to the Court and Sheriffs deputies in the Courtroom by volunteering false information - not part of the proceeding.. Defendant Offune Obiamiwe acted with actual malice by making that statement in the knowledge that it was false, and in reckless disregard for the truth.

In the Courtroom Offune Obiamiwe defamed Plaintiff's character to the court, Judge Laurence D. Rubin. Offune Obiamiwe then proceeded to tell Judge Laurence Rubin, I quote, "I'm not into women's lib," and she laughed along with Judge Laurence D Rubin who then dismissed her from the courtroom

APPENDIX F

INTENTIONAL MISREPRESENTATION

(Santa Monica College Police Officer Ron Marable,.)

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There was Misrepresentation by Police officer Ron Marable to the Plaintiff over the statute of limitations for reporting sexual assault. There is scienter ie. A culpable state of mind – either knowledge of the statements falsity or reckless indifference to the truth, which there was in this case, as Police Officer Ron Marable actually defrauded plaintiff by saying she had never made the sexual assault complaint to him which he said to her in March 1998. There was intent to induce Plaintiff's reliance on the misrepresentation, so that Plaintiff would not sue either Larry Jones or Santa Monica College. There was justifiable reliance by the Plaintiff on Police Officer Ron Marable's statement as she trusted Marable's statement, and there was damage to the Plaintiff that stemmed from the reliance on Police Officer Ron Marable's statement that the sexual assault was too old to report - and damage especially as he denied they ever had that conversation later on.

OBSTRUCTION OF JUSTICE

(Santa Monica College Police Officer Ron Marable)

Defendant Santa Monica College Police Officer Ron Marable's obstruction of justice came in two parts -a) When SMC police officer Ron Marable did not record Plaintiff's complaint about defendant SMC Defendant Instructor R Larry Jones's sexual assault of Plaintiff in November 1996 because defendant SMC police Officer Ron Marable told Plaintiff matter was too old to report b) and when defendant SMC police officer Ron Marable later denied on 17th, March 1998 that Plaintiff had made that sexual assault complaint to him at the SMC police Department in November 1996; or that he had interrogated Plaintiff in detail about defendant R L Jones's sexual assault at that time

APPENDIX F

When Plaintiff told Santa Monica College Police Officer Ron Marable in November 1996, about defendant R L Jones sexual assault on her in 1994, the sexual assault on her by Defendant R L Jones, was only two and a half years old, and therefore defendant Santa Monica College

Police Officer Ron Marable was not telling the truth to Plaintiff when he said the sexual assault was too old to report.

Even though Defendant Santa Monica College police officer Ron Marable thought that the sexual assault "was too old to record" this did not stop him from interrogating Plaintiff in detail in November 1996, about Defendant R L Jones's sexual assault on her, as Defendant Ron Marable was curious to

find out if what plaintiff was describing to him had been a real sexual assault on her person by defendant R L Jones, and not just a harmless flirtation

42 USC 1983 DEPRIVATION OF CIVIL RIGHTS - RETALIATION FOR REPORTING SEXUAL ASSAULT - PLAINTIFF BANNED FROM SANTA MONICA COLLEGE WITH NO DUE PROCESS OF LAW UNDER FOURTEENTH AMENDMENT

(BRENDA SIMMONS - CHIEF EILEEN MILLER - SANTA MONICA COLLEGE - BOARD OF TRUSTEES SANTA MONICA COLLEGE COMMUNITY DISTRICT-)

On April 1st, 1997, five months after plaintiff had reported defendant R L Jones sexual assault to defendant Santa Monica College Police Officer Ron Marable and five months after making a police report about Mary harassing her, Plaintiff received a letter from Brenda Simmons at Santa Monica College **accusing her of something but not stating what she was accused of, see attached Exhibit D.**

Plaintiff responded to the letter asking to know the details, see attached Exhibit E, incorporated by this reference, as Plaintiff had a right to know - what the matter was about before she met with Brenda Simmons of Santa Monica College. But Santa Monica College did not respond and instead prohibited plaintiff from taking classes at Santa Monica College.. .

After Plaintiff met with defendant Brenda Simmons, the ban was lifted, but as Plaintiff was not apprised in advance of her meeting with Brenda Simmons what the meeting was concerning, Santa Monica College barred Plaintiff from receiving education at Santa Monica College without Due Process Of Law, and violated rights guaranteed to the Plaintiff under the fourteenth amendment.

Plaintiff filed a formal written complaint with Santa Monica College Police Chief Eileen Miller in March 1998 against SMC policeman Ron Marable for his cover up, which is **Exhibit G** attached and incorporated by this reference.

The result was that **Exhibit G was disregarded by defendant Santa Monica College Chief of Police Eileen Miller, even though California Penal Code Section 832. 5** (a) states that Santa Monica College Police Department has the responsibility to investigate Plaintiff's complaint against defendant

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Santa Monica College police Officer Ron Marable. CPC 832.5 (a) and the Los Angeles County District Attorney's Office's letter to Plaintiff, Exhibit H, third paragraph, attached and incorporated by this reference, also states that **California State Law requires that Santa Monica College Police Department "establish a procedure to investigate Plaintiff's complaints against their personnel... and...make a written description of the**

procedure available to the public. And this Santa Monica College et al did not do in 1998.

NEGLIGENCE

(Piedad Robertson, Robert Sammis, Santa Monica College, Santa Monica College District, Santa

APPENDIX F

Monica College Police Department , Santa Monica College Board Of Trustees et al.)

The defendants behaved carelessly, and failed to appreciate the risks of their negligent conduct when they failed to investigate defendant Ron Marable's obstruction of justice. The defendants have a legal duty requiring the defendants to conduct their employees according to a certain standard so as to avoid unreasonable risk to others, and they failed to conform. There was also proximate cause because there is sufficiently close causal link between the defendant's act of negligence and the harm suffered by the plaintiff in the courtroom where there was actual damage as a result..

Plaintiff set up a meeting with the President of Santa Monica College, Dr. Piedad Robertson in August, 1998, to tell her once more about the instructor's sexual assault of her, and SMC policeman's Marable's cover up of the sexual assault.

On Plaintiff's request defendant Dr. P Robertson, and her office had agreed to an investigation of defendant SMC policeman Ron Marable, and had assigned the investigation to SMC Dr. Robert Adams of student affairs.

Plaintiff met with Dr. Robert Adams two days before Plaintiff met with defendant SMC college President Piedad Robertson in August 1998, and Dr. Adams noted the details that Plaintiff gave him about defendant Ron Marable's obstruction of justice. At this meeting Dr. Adams kept repeating to Plaintiff, "These are very serious charges, very serious charges" over and over again.

Dr. Robert Adams said he would investigate defendant Santa Monica College Police Officer Ron Marable, and said that he would get back to Plaintiff in two weeks.

Two days later after her meeting with Dr. Adams Plaintiff met with defendant SMC College President

Dr. Piedad Robertson. Plaintiff showed her and defendant Robert Sammis Court evidence, attached as Exhibit J, and incorporated by this reference, showing how Plaintiff had been held her up in 1978 by people with armed weapons who had kidnapped her. Plaintiff was lucky to escape with her life.

Plaintiff explained to defendant Santa Monica College President Piedad Robertson that people in responsible positions also commit crimes against others - sometimes, and abuse their positions. Defendant Dr. Piedad Robertson cut Plaintiff off quickly at this point, turning the subject back to the matter at hand, and told Plaintiff that there are usually witnesses to sexual assault, which is not true, and informed Plaintiff that she thought much had been done for plaintiff - as Plaintiff was able to talk about the sexual assault to SM College employees, (one employee cooked and crunched popcorn while they listened to information about the sexual assault!) implying that even though plaintiff had been the victim of sexual assault and obstruction of justice, that Plaintiff should just be satisfied with talking to Santa Monica College employees.

At the meeting defendant Dr. Piedad Robertson was interested to hear what Plaintiff had to say about defendant SMC police officer Ron Marable. She told defendant Robert Sammis of to keep quiet, as he had been making a noise previously to disrupt the meeting as much as he could. Plaintiff asked defendant Dr. Piedad Robertson, "How could police Officer Ron Marable forget in fifteen months that Plaintiff told him Instructor Larry

Jones sexually assaulted Plaintiff, an Instructor and somebody that Marable knows well," Plaintiff said that it would be impossible for Marable to forget.

Defendant SMC college president Dr. Piedad Robertson, as soon as she heard this immediately changed her mind about investigating SMC policeman Ron Marable, and refused to investigate him, telling Plaintiff he had already been investigated. But Plaintiff in August 1998, saw no evidence of an investigation taking place. At this point defendant Dr. Robertson's office began to get chaotic, as Plaintiff told defendant Robertson that Plaintiff had understood that Dr. Adams was investigating Marable - Plaintiff had met with Dr. Adams only two days earlier to give details concerning the investigation of Defendant Ron Marable.. But Defendant Dr. Piedad Robertson was adamant saying loudly, "No he's not." Plaintiff then said, "But I only met with him (Dr. Adams) two days ago, and he said he was going to investigate police officer Ron Marable." Defendant Robertson shouted again, "No he's not," and she called Dr. Robert Adams to come to her office, and he arrived promptly, and Dr.

Piedad Robertson told Dr. Adams not to investigate SMC police officer Ron Marable. Promptly after this Robert Sammis was more than gleeful and threatened Plaintiff with the Santa Monica College Police. (Defendant Dr. Sammis of Santa Monica College wrote the decision that Defendant R L Jones had not sexually assaulted Plaintiff. He had signaled his contempt early in his investigation to Plaintiff- by scheduled his meeting with her on the same day as the Academy Awards in March 1998. Robert Sammis even though he heard the tape of student Offune Obiamiwe at this meeting, and Obiamiwe's complaint about how defendant Instructor R L Jones had been dating his students and photographing

them in the nude, defendant Robert Sammis did not include this evidence in his denial of Plaintiff's claim against the Instructor for sexual assault.)

Defendant Robert Sammis's threatened Plaintiff with the Santa Monica College Police so

she would leave Piedad Robertson's office, even though Plaintiff did not want to stay. Defendant Dr. Robert Sammis began to treat Plaintiff as if she were a criminal in August 1998 which foreshadowed what was to come on October 6th, 1998, with the abusive Abuse Of Process and Police Brutality.[EMPHASIS ADDED]

Defendant Dr. Piedad Robertson of Santa Monica College also was reluctant to investigate Santa Monica College Police Officer Ron Marable, and by hindering and delaying Plaintiff in this way, also obstructed the course of justice.]

. 42USC 1983 Deprivation Of Civil Rights Unfair hearing, No Due Process Of Law, Abuse Of Process- 42 USCS 1985 (2) (3) Obstructing justice, intimidating party, witness

MALICIOUS ASSAULT AND BATTERY EXCESSIVE FORCE

(County Of Los Angeles et al, Santa Monica College et al, etc not Sheriff Terry January if he is African American, not Offune Obiamiwe, not Brenda Simmons, not Jo Ann Fielder,)

The police brutality was instigated by 1 Caucasian Sheriff Deputy who Plaintiff can recognize, kicking Plaintiff to the floor and 1-2 others joining him and punching Plaintiff twenty times in soft tissue around her stomach and ribcage area and digging their fingernails into her hands even though Plaintiff had not attacked them, and was not resisting their attack on me, and these three Caucasian

Sheriff Deputies allowed the defendant Santa Monica College Police officer Ron Marable to join in their ceremonial activities by putting his hand on my back as I lay on the floor after they had punched me for two minutes.

The one Caucasian Sheriff deputy bailiff currently hidden by the County Of Los Angeles Sheriff's department intended to cause contact and intended to cause fear of the contact. The fear or apprehension was reasonable, and the harmful or offensive contact was imminent.

Defendant Caucasian Sheriff Deputy intended to cause contact Intent to cause fear of contact And there was harmful contact and the force was not reasonably necessary at all.

Plaintiff's claim was for emotional injury resulting from police officer Ron Marable's cover up that Plaintiff reported teacher Larry Jones's sexual assault to him, and Defendant Santa Monica College Police Officer Ron Marable's cover up that he interrogated Plaintiff regarding Defendant Instructor R Larry Jones's sexual assault of Plaintiff in November, 1996, Santa Monica College's negligence in not investigating Santa Monica College Police Officer Ron Marable, and defamation of character, as well as Santa Monica College's cover up that Instructor R Larry Jones's sexually assaulted Plaintiff. Santa Monica Case # SM 98 A01 437 was filed 2nd Sept.98. **See Exhibit K1 through K2.**

42 USC 1983, 42 USC 1985 (2) (3)

(County Of Los Angeles Defendants)

Why did the Court, Judge Laurence D.Rubin, allow Caucasian sheriffs into the courtroom, who beat up Plaintiff, and who are now being hidden?

Why is the Sheriff's Department not telling the truth by saying that Plaintiff was taken to the ground by

APPENDIX F

African American Sheriff Deputy Bailiff Terry January (Judge Laurence D Rubin's regular daily Sheriff), when it was the described Caucasian sheriff's deputy that took the Plaintiff to the ground? Plaintiff was nowhere near Judge Laurence D Rubin when the 5ft 10in, approx.35 year old, Caucasian muscular Sheriff Deputy with ash blond straight hair, squinty eyes, began to come towards her. Plaintiff tried to give this Caucasian sheriff's deputy three character references Exhibit L, 1,2, 3 when Plaintiff could see a very angry expression had appeared on his face, and his whole body had gone into an attacking mode, where his eyes had closed, and his head was tilted down,

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The first time the Caucasian Sheriff came towards the Plaintiff, Plaintiff tried to give the three character references to him but he refused to take them, the second time the Caucasian Sheriff's deputy moved towards Plaintiff he knocked Plaintiff instantly to the ground. The next thing Plaintiff knew was that Plaintiff was lying face down on the ground, and the Caucasian Sheriff's deputy began twisting Plaintiffs arms behind her. . Then two other sheriff's deputies arrived and began to punch Plaintiff in soft tissue into the side of her body near her rib cage, even though Plaintiff was not resisting this attack on Plaintiff, and was already restrained by this first Caucasian sheriff deputy. Yet they kept punching Plaintiff and punching Plaintiff, about twenty times. The Plaintiff kept saying, "What are you doing? What Are You doing?" The 2-3 Caucasian sheriffs deputies dug their fingernails into the skin of Plaintiff's left hand, twisted her arms and twisted and wrenched her glasses off her face. Please see **Exhibit Q** from "Frame And Lens" Eye Glass company which is evidence that Plaintiff needed to straighten out her glasses on Tueday October 6th, 1998 at around 1 p.m. The punching went on for about two minutes even though plaintiff was not resisting, but still

they kept punching and punching softly into Plaintiff's soft tissue. Towards the end of the beating -even though Plaintiff was on her stomach, Plaintiff turned round and looked up to see that defendant Santa Monica College Policeman Ron Marable had joined in the beating activities, and was holding Plaintiff down with his arm on her back and posing in a war like gesture of winning.

FALSE ARREST; FALSE SEARCH EXCESSIVE FORCE

(All Defendants)

Plaintiff was then handcuffed, and the sheriff's deputies told Plaintiff she was arrested. Plaintiff told the Caucasian Sheriff's Deputies that she hadn't done anything! . The Caucasian Sheriff's deputy that had knocked her to the ground, and who was one of the Caucasian Sheriff's deputies who had punched her for two minutes told her that, I quote, " You didn't listen!"The Other Caucasian Sheriff's deputies told Plaintiff she was arrested , and that they would be transporting Plaintiff downtown Los Angeles to the county jail. Plaintiff kept repeating, I quote, "I haven't done anything!".

1-10 Sheriff Deputy Does, without a warrant and without probable cause, falsely arrested plaintiff in violation of **plaintiff's Fourth Amendment right to be secure in his person from unreasonable seizure and her Fourteenth Amendment right not to be deprived of his liberty without due**

process of law.

UNLAWFUL DETAINMENT

(Santa Monica College Police Officer Ron Marable, R L Jones, Santa Monica College, Santa Monica College County Of Los Angeles, Judge Laurence Rubin, excluding Sheriff Sherman Moten, Sheriff Terry January (if he is of African American descent, and Sheriff Lee Baca who was not in office until December 1998)

APPENDIX F

VIOLATION OF CIVIL RIGHTS UNDER UNITED STATES CONSTITUTION 42 USCS §1983,42 USCS § 1985 (2) (3), 42 USCS §1986, 42 USCS § 1988;MUNICIPAL VIOLATION OF CIVIL RIGHTS; CONSPIRACY TO DEPRIVE PLAINTIFF OF A FAIR AND MEANINGFUL HEARING.

(All defendants)

One Caucasian Sheriff Deputy initiated the police brutality against Plaintiff with first his assault and then battery where he kicked Plaintiff to the ground. Then immediately after - one to two other Caucasian Sheriff's Deputies joined in with the first Caucasian Sheriff's deputy to batter the Plaintiff further while she was on her stomach on the ground, punching her for about two minutes, even though Plaintiff had made no attempt to harm them or even defend herself against their brutality.

The Caucasian Sheriff's deputy tugged metal framed glasses off the Plaintiff's face digging her glasses into her face. Another Sheriff's deputy twisted and dug his fingernails into the back of her left hand, causing bruising. Santa Monica College Police Officer Ron Marable joined in this activity towards the end. One African American Sheriff's deputy female was involved in unlawful seizure of Plaintiff's property, taking her bag, watch, glasses, and three character references from Instructors at Santa Monica College which Judge Laurence Rubin had refused to look at - from Plaintiff's hand, and the same or a different female African American Sheriff conducted an unlawful search of plaintiff's person after the beating was over.

All the other Caucasian sheriff's deputies were involved in the false arrest, by terrorizing the Plaintiff - telling her that she was arrested and would be taken to the LA County Jail, are liable for the Courtroom injuries to Plaintiff alleged in this Complaint.

APPENDIX F

Receiving education is a property interest guaranteed under the Constitution. Since

suspension from College imposed a stigma, my liberty interest was infringed upon in April and May 1997.

Balancing these interests against the state's interests in maintaining order and discipline, the Goss v. Lopez Court (1975) held that due process requires that the student be furnished at least notice of the charges, an explanation of the evidence against him or her, and an opportunity to reply, which did not happen in this case.

104. Plainitiff waited outside the holding cell, with aproximately 5 Caucasian Male Sheriffs deputies

105. Plainitiff was falsely arrested, falsely searched, no charges were stated, no miranda rights were read, no phone call was offered, no medical help was offered, and Plaintiff was unlawfully detained, jailed for over an hour in the jail next to Judge Laurence Rubin's courtroom.

106. The Caucasian Sheriff Deputy Bailiff who had knocked her down had already left the scene.

107. Before Plaintiff was incarcerated she was searched by an African American female officer who arrived.

108. Plainitiff was never charged with anything. Plaintiff was never taken to County Jail, downtown Los Angeles as threatened by the Caucasian sheriff's deputies who had beaten her up, and Plainitiff was released after an hour.

109. After this a very light skinned amenable male African American Sheriff's deputy who had not been involved in the beating came up to the jail and said, to Plaintiff I quote, "I heard you were taken down." He asked Plaintiff what happened, and Plainitiff told him, and he went away for twenty more minutes before he came back and released Plaintiff, saying I quote, "(Judge Laurence Rubin) The Judge said he was sorry!"

110. But as Plaintiff had no record, was in a civil court of law, and had passed a metal detector inspection when Plaintiff entered the Santa Monica Courthouse, Plaintiff certainly should not have been exposed to this Abuse Of Process.

111. Judge Laurence Rubin's judgment dated 6th October, 1998, attached as Exhibit N and incorporated by this reference states that, **"Defendant does not owe any money on plaintiff's claim." But Judge Laurence Rubin did not dismiss this case with prejudice. Judge Laurence D. Rubin closed the case during the proceeding because defendant Marable eventually decided to use "No**

(Government) Claim" as a defense so as to close the hearing. But this is not apparent in the decision. Judge Laurence Rubin had not allowed a proper hearing to take place as he had not allowed the plaintiff to cross-examine defendant in his courtroom or vice versa, and didn't mind that he didn't know the case, and so was unable to cross-examine the defendant properly.

ABUSE OF PROCESS

(County Of Los Angeles, Santa Monica Courthouse, County Of Los Angeles, Judge Laurence Rubin, County Of Los Angeles Sheriff's department, 1-10 Caucasian Male Sheriff Deputy Does, Sheriff Deputy Does 1-50, Sheriff Terry January (NOTE: Only if Deputy January says he was involved!), Santa Monica College, Santa Monica Community College District, Santa Monica College Board Of Trustees et al, Piedad Robertson, Robert Sammis, Santa Monica College Police Department, Chief Eileen Miller, Santa Monica College Police Officer Ron Marable, R.L Jones. Does 1-100)

The California Government claim requirement was not designed to be used, to permit the defendant Ron Marable, Santa Monica College, Santa Monica College Police Department and Santa Monica College District, to

secure an advantage over Plaintiff by allowing a process to continue, a process that Plaintiff would never be able to prevail in - in that she had not met the California Government claim requirement at that time- and especially as that California Government Claim requirement was used later on in that process as a defense and device to close the hearing, and to also nullify or disguise a chance for Plaintiff to have a hearing again in that same court, after she had complied with the Government Claim requirement..

Defendant Santa Monica College Police Officer Ron Marable concealed from the Plaintiff and the Court, that the Plaintiff had not met the California Government Claim 910 requirement at the beginning of the hearing on October 6th, 1998.

Defendant Ron Marable continued the proceeding on October 6th, 1998, knowing that the proceeding could have been terminated at the beginning of the hearing because there was no government claim filed by Plaintiff to him or the other defendants, and he used this as a defense to close the hearing later on, when he became apprehensive as Plaintiff wanted to show some evidence!

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The defendants concealed the California Government Claim requirement at the beginning of the hearing on October 6th, 1998, for the illegitimate purpose of continuing and controlling the process, using it to surprise and disrupt the hearing, at an opportune moment, and as a device to terminate any further ligitation against the defendants, by making it seem that a legitimate and fair hearing had taken place. Exhibit A attached and incorporated by this reference shows that the Government Claim forms were not filed until December1998 by the Plaintiff.

The California Government claim requirement should not be used as a device by the defendant or the

Court, Judge Laurence D Rubin, to hide that a proper and legitimate process could not take place on October 6th, 1998, as the California Government Claim requirement had not been met by the Plaintiff at that time.

If defendant Santa Monica College Police Officer Ron Marable had revealed there was no government claim filed to the defendants by the Plaintiff at the beginning of the hearing, then no hearing would have occurred on October 6th, 1998.

.The essential element s of ABUSE OF PROCESS are 1) use of legitimate process of the court (2) for an illegitimate purpose. The illegitimate and ulterior purpose of this hearing was to coerce Plaintiff to stop proceedings. The hearing continued when it should not have continued, and was used as a threat and a club, and a form of extortion. And there was a perversion of the process after it was issued. Three or four days after the October 6th, 1998 hearing, Plainitiff remembered that she had been told about seven years ago that Sheriff's beatings of people take place in Judge Laurence Rubin's Small Claims courtroom in Superior Court, Santa Monica Courthouse on a regular basis. The conversation came up because Plaintiff was in Santa Monica Courthouse, and as she walked by Judge Laurence Rubin's courtroom she wondered out loud whether Judge Laurence Rubin was related to Judge Charles Rubin of Beverly Hills Court. **Judge Charles Rubin had given Plaintiff a judgment against Los Angeles County in Beverly Hills Court, Case No 96665 on October 31st, 1989, and Plaintiff wondered out loud - if Judge Charles Rubin and Laurence Rubin were brothers.** This person also informed Plaintiff that Sheriff's Deputies with records of excessive force who gave the beatings in Judge Laurence Rubin's Courtroom were never reprimanded, and always hidden. There was mention of a Sheriff named Chaney who had a long record of excessive

force, who was famous for this.

HARASSMENT

Defendant Ron Marable harassed Plaintiff on 22nd December, 1998 while she was on a telephone at Santa Monica College at Stewart Street, and shouted her name out at top volume, and laughed at her as he walked passed her a couple of times. Santa monica college did not take him out of Plaintiff's vicinity even though she complained each time and the College kept installing him in Stewart St knowing he was the cause of police brutality against her.!

42 USC 1983 42 USC 1985 (2) (3) - DEPRIVATION OF CIVIL RIGHTS - NO DUE PROCESS OF LAW- OBSTRUCTION OF JUSTICE - FAULTY SHERIFFS INVESTIGATION OF INTO CAUCASIAN SHERIFF BRUTALITY (COUNTY OF LOS ANGELES ET AL, SHERIFF SHERMAN MOTEN AND SHERIFF LEE BACA)

When Plaintiff initially made the police brutality/unlawful detainment complaint on 7th December 1998, in the Santa Monica Courthouse Sheriff's department, 1725 Main St, Santa Monica against 2-3 of Judge Laurence D. Rubin's Santa Monica Courthouse Sheriff's deputy bailiffs, SHERIFF SHERMAN MOTEN EMPLOYEE NO 064827,OF SANTA MONICA COURTHOUSE SHERIFF'S DEPARTMENT REFUSED TO WRITE DOWN (on the Los Angeles County Sheriff's Department Watch Commander's service complaint report form No 69159, **Exhibit X** attached and incorporated by this reference,

A) that the defendant Santa Monica College policeman Ron Marable had also joined in with the Caucasian Sheriffs deputies bailiffs in beating Plaintiff up, and that the Caucasian Sheriffs Deputy Bailiffs of Judge Laurence Rubin's courtroom allowed

defendant Santa Monica College Police Officer Ron Marable to join in their police brutality against the Plaintiff by his posing in some kind of war like gesture of winning at the end of the beating by putting his hand on the Plaintiffs back as she lay on the ground. As the Sheriffs were quite happy to allow the defendant Santa Monica College Police Officer Ron Marable to join in the beating this is more evidence that the hearing was a set up, a conspiracy, was preplanned and the Caucasian Sheriff's Deputies were in the Courtroom specifically for the purpose of beating up Plaintiff as she was exposing the corruption of defendant Santa Monica College Police officer Ron Marable and the other Santa Monica College defendants.

PAGE 67

B) That one of the Caucasian Sheriff s deputies had dug his fingernails into her left hand, Plaintiff has a photograph, Please see **Exhibit Z108** is also evidence of malicious intent on the part of the Caucasian Sheriff Deputies towards Plaintiff. as she put up no defense against their attack on her.

Sheriff Moten did write these two points down on a separate piece of paper, when Plaintiff insisted, and gave Plaintiff a photocopy attached as **Exhibit XX. BUT SHERIFF SHERMAN MOTEN REFUSED TO SIGN THE PIECE OF PAPER, and through refusing to sign the piece of paper was helping to diminish the extent of Plaintiffs complaint against the Santa Monica Cacausian Sheriff's deputies.** Sheriff Sherman Moten wrote on the piece of paper attached as **Exhibit XX "Ms Bernhardt said that one of the deputies embedded his fingernails into her left hand. She also received a bruise on her right leg at the knee, and suffered internal injuries from the punches, and was falsely arrested, and her glasses were torn from her face. Ms. Bernhardt does not recall the deputies names, however she can identify**

the deputies involved. Ms. Bernhardt also stated that defendant Ron Marable (Santa Monica College Police) also assisted."

Plaintiff wrote to Sheriff Lee Baca on 29th, January, 1999 to incorporate Sheriff Sherman Moten's notes, that were part of Plaintiff's complaint into Plaintiff's official complaint against the Sheriff's department., so that the Sheriff's department's investigation would be obliged to investigate defendant Santa Monica College policeman Ron Marable who was allowed to join in - in beating Plaintiff up in Judge Laurence Rubin's courtroom. Also because defendant Santa Monica College police officer Ron Marable was allowed to join in - and did join in with the Sheriff's deputies bailiffs by holding his hand on Plaintiff's back in a war like gesture of winning while Plaintiff was being held on the ground by the Sheriff's deputies bailiffs - and after Plaintiff had just been punched twenty times by the Sheriff's deputies bailiffs, this shows an allegiance and conspiracy between the two departments!

Plaintiff asked Sheriff Lee Baca that her complaint include defendant Santa Monica College policeman Ron Marable's involvement with the Sheriffs deputies bailiffs in beating her up on the main Sheriff's claim form 69159! **And Plaintiff wrote at the end of her letter to him "The diminishing and misrepresentation of my complaint by the Sheriff's Department to exclude defendant Santa Monica College Police Officer Ron Marable's involvement in the police brutality against me on October 6th, 1998, is the same kind of diminishment that occurred at the Santa Monica College**

PAGE 68

Police department when Santa Monica College Police Officer Ron Marable refused to record my complaint about Santa Monica College Instructor

Larry Jones sexual assault of me at all, in November 1996, because he said the sexual assault was too old to record! And then later he denied that we ever had that conversation. Once my complaint is completely and accurately recorded by your office, and I receive a copy that reflects my full complaint, I will be happy to contact whoever needs to be contacted so the investigation can move forward."

As soon as Sheriff Lee Baca received this letter from Plaintiff this is when he quickly closed the investigation of the Caucasian Sheriff's deputies, on 5th February, 1999, **WITHOUT EVEN OFFERING TO SHOW MUG SHOTS TO THE PLAINTIFF OF CAUCASIAN SHERIFF'S DEPUTIES WHO WORK IN SANTA MONICA COURTHOUSE WHO HAVE RECORDS OF EXCESSIVE FORCE. OF COURSE JUDGE LAURENCE RUBIN ALSO KNOWS WHO WAS IN HIS COURTROOM.**

On 29th, January 99 Plaintiff was not happy and was concerned about how the Sheriff's investigation into her complaint against the Caucasian Sheriffs deputies was proceeding, and so she wrote to Sheriff Lee Baca about how Sheriff Sherman Moten had dimished her complaint. The letter is attached as Exhibit -0 Plaintiff informed Sheriff Lee Baca that she was concerned because her complaint against Judge Laurence Rubin's Sheriff's deputies bailiffs and defendant Santa Monica College Police Officer Ron Marable has not been recorded completely or accurately by Sheriff Sherman Moten of Santa Monica Courthouse Sheriff's department, and so it followed that a complete investigation into the police brutality against the Plaintiff could not take place if the complaint had not even been accurately recorded to include all aspects of her complaint i.e. one Sheriff Deputy digging his fingernails into the back of her left hand, and the fact that the Caucasian Sheriffs had allowed the

defendant Santa Monica college Police Officer Ron Marable to join in this beating at the end.

Plaintiff reminded Sheriff Lee Baca that when she spoke to him over the telephone in mid December 1998, Sheriff Lee Baca informed Plaintiff that he wanted to investigate Plaintiff's alleged Santa Monica College police department's corruption that led to the police brutality against the Plaintiff, on 6th October, 1998, in Judge Laurence Rubin's courtroom.

Plaintiff wrote to Sheriff Lee Baca because in December he also had promised her something he was

unable to fulfil.. Sheriff Lee Baca made false and overzealous statements to Plaintiff in December 1998 about being able to investigate Santa Monica College police corruption which is most likely not his jurisdiction. He said it to give the Plaintiff hope but possibly also to lead the investigation away from his own Caucasian Sheriffs deputies, and when Plaintiff told the other Sheriffs at Sheriffs headquarters what Sheriff Lee Baca had told her they emphatically told her what Sheriff Lee Baca told her was not true.

Why is County of Los Angeles Sheriff Lee Baca saying that Plaintiff was in a confrontation with Defendant Deputy Terry January, the regular Sheriff for that Courtroom, when she has had no dealings with Defendant Terry January -at all. **Sheriff's Deputy Terry January however is the perfect candidate to hide the other Caucasian sheriff's deputies who caused the police brutality as he is the regular deputy sheriff for Judge Laurence Rubin's courtroom** according to Sheriff Sherman Moten who Plaintiff made the complaint with in December1998.

Why are the Sheriff's Department fabricating a fictitious story by saying that Santa Monica College Police Officer Ron Marable assisted Deputy January both of

African American decent, in stopping Plaintiff's approach to the judge.

As alleged hereinabove, Defendants, and each of them, engaged in a course of extreme and outrageous conduct, willfully, maliciously, intentionally, and with oppression and willful and conscious disregard of the rights, welfare and safety of the Plaintiff. As alleged hereinabove, Defendants, and each of them, engaged in said conduct with the intent to deprive and/or violate Plaintiff's civil rights and with the intent to cause Plaintiff extreme emotional distress.

Defendants' acts and omissions as hereinbefore alleged proximately caused Plaintiff to sustain great physical and mental pain and shock to her nervous system, fear, anxiety, degradation and extreme emotional distress.

By reason of the wrongful and malicious acts of Defendants, and each of them, who at all times were working within the course and scope of their employment with Defendant governmental entities, Plaintiff sustained severe physical and emotional injuries and has suffered extreme mental and physical anguish.

By reason of the aforementioned acts and omissions of Defendants, and each of them, Plaintiff has

been in pain physically and is still suffering with daily pains in her throat, difficult breathing, weakness, and continue to need treatment in the future for the bodily injuries sustained to her person. The traumatic Court experience has probably taken ten years off her life.

By reason of the aforementioned acts and omissions of Defendants, and each of them, Plaintiff has been prevented from continuing her education and has missed employment opportunities having been ill since October 6th, 1998 to her damage in an amount to be proved at trial.

APPENDIX F

Plaintiff is informed and believes and thereon alleges that the aforementioned acts and omissions of Defendants were willful, malicious, intentional , oppressive and despicable, and were done in willful and conscious disregard of the rights, welfare and safety of the Plaintiff, and done above and beyond the scope and bounds of their official duties, thereby justifying the award of punitive and exemplary damages against all defendants who are natural persons in their individual capacities in an amount as proved at trial.

WHEREFOR, Plaintiff prays for judgment against all defendants, and each of them, jointly and severally as follows:

1. General damages according to proof,
1. Special damages according to proof,
3. Punitive and exemplary damages according to proof,
4. Costs of suit and attorneys fees under 42 U.S.C. Section 1988
5. Such other and further relief as the court deems just and proper

---

__ DATE 7/6/99
ANGELA BERNHARDT
Plaintiff In Pro-per

DEMAND FOR JURY TRIAL

Plaintiff demands trial by jury of all issues properly triable by jury herein against all defendants.

DATE 7/6/99
ANGELA BERNHARDT
Plaintiff In Pro Per

APPENDIX F
EXHIBITS ATTACHED TO ORIGINAL COMPLAINT

RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

(LOCATION IN RECORD - EXHIBIT A1 & A2, 9TH US COURT OF APPEALS EXCERPT OF THE RECORD VOLUME 1- Page No 33 & 34.)

RECOMMENDED CLAIM FORM GOVERNMENT CODE SECTION 910 & 910.2 CHAPTER 1

To Secretary Board Of Trustees Of The Santa Monica Community College District 1900 Picc Boulevard Santa Monica CA 90405-1628

Refer Answer to: Angela Bernhardt P.O.Box 480509, Los Angeles 90048. California.

Name Of Claimant - Angela Bernhardt

Telephone (310) 281 3092

Who Instructor [-R] Larry Jones When did damage or injury occur?

1. June, July 1994. Sexual Assault,

2. November 1996, Defamation Of Character intentional infliction of emotional distress.

How did damages or injuries occur? Give full details.

SEXUAL ASSAULT-JUNE OR JULY 1994.

APPENDIX F

RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

I was a student in Instructor [R] Larry Jones's color printing class and felt something hard on my behind, and when I turned aound I found it was Instructor [R] Larry Jones with his hard genitals pressed up against me. He moved off me quickly when I turned around and saw that it was him.

The next day [R] Larry Jones made a reversal joke in front of other students in the color printing class who were standing near him. He said to me jokingly, "Are you touching me again!" I was standing a few feet away from

him when he made this reversal joke ! So I replied, "Yes I'm getting you back for you touching me yesterday." And even though I was nowhere near him I answered him in this way so as to inform me not to sexually assault me again!

DEFAMATION OF CHARACTER - NOVEMBER - 1996

Santa Monica College Instructor Larry Jones began to tell untruths about me to Santa Monica College Police Officer Ron Marable over the phone in November 1996, while I was n the Santa Monica College Investigator Ron Marable's office.

What particular Act or Ommission on the part of the School District officers or employees cause the injury or damage?

Santa Monica College Employee Instructor [R.] Larry Jones

Act 1 - Sexual Assault Santa Monica College Instructor [R] Larry Jones's sexually assaulted me in his photo 50 color printing class in 1994.

APPENDIX F

RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

Act 2 - Defamation of Character Santa Monica College Instructor Larry Jones began to tell untruths about me to Santa Monica College Police Officer Ron Marable over the telephone in November 1996 while I was in the Santa Monica College Investigator Ron Marable's office.

Santa Monica College Employee Police Officer Ron Marable

Act 3 -Obstruction Of Justice Santa Monica College Police Officer Ron Marable obstructed justice- when he did not record my complaint about Santa Monica College Instructor Larry Jones's sexual assault of me in November 1996, as he told me the matter was too old to report in November 1996, and then he later denied in March 1998 that I had made that sexual assault to him at the Santa Monica College police department in November 1996, or that he (Santa Monica College Police Officer Ron Marable) had interrogated me in detail about instructor, Larry Jones's sexual assault of me in November 1996, to establish for himself that it was a sexual assault violation that I was reporting, which in November 1996 Marable said it was!

Act 4 Denial Of Obstruction Of Justice Santa Monica College Police Officer Ron Marable continued denial of his obstruction of justice in Judge Laurence Rubin's Santa Monica Courtroom R has caused much harm to me. He has not protected and served me, but has tresspassed against me, and has inspired police brutality against me!

Act 5 Police Corruption Denial Of Police Corruption Causes Police Brutality Santa Monica

APPENDIX F

RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

College Police Officer Ron Marable's denial that he has obstructed justice, is a direct cause of the police brutality that errupted against me in Judge Laurence Rubin's courtroom.

Act 6 Police Brutality Santa Monica College's Police Officer Ron Marable joined the "Rodney King Style" beating activities against me in Judge Laurence D Rubin's Courtroom R on 6th October 1998.

END OF PAGE

(LOCATION - DISTRICT COURT DOCKET 1 EXHIBIT A 2 1 OR 9TH US COURT OF APPEALS EXCERPT OF THE RECORD VOLUME 1- Page No 34).

Santa Monica College

Act 7 A biased Santa Monica College investigation into Santa Monica College Instructor [R] Larry Jones's sexual assault of me. The Santa Monica College investigation into Instructor [R] Larry Jones's sexual assault of me was in bad faith, and the investigation MISREPRESENTED MY CASE by DISTORTING THE LOCATION OF THE SEXUAL ASSAULT which was the photography lab's color filter table, and the investigation OMITTING EVIDENCE by not taking into consideration Instructor [R] Larry Jones innappropriate behavior towards other female students i.e. dating student Marissa from his classes, and asking, many students including Offune Obianewe to pose nude in his photographic shoots on the Santa Monica College campus. I provided this evidence and **Dr. Adams and Dr.**

APPENDIX F

RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

Sammis hard the tape okf this evidence which included student Offune Obianewe, who was approached by Instructor [R] Larry Jones girlfriend Marisa to pose nude for Instructor Larry Jones for a shoot he was holding on campus, but this tape was omitted from the documentation and evidence of the in - house investigation into Instructor {R] Larry Jones's sexual assault of me.

What damage or injuries do [you] claim resulted?

1. Trauma. 2. Humiliation/abasement 2) Emotional distress 3) Santa Monica College's investigation into Instructor Larry Jones sexual assault of me only caused more harm, as it covered up Instructor Larry Jones sexual assault of me by distorting and omitting facts rather than seeking the facts impartially. 4) Instructor Larry Jones's sexual assault of me also in part caused Santa Monica Colleg police officer Ron Marable's cover up which later led to police brutality against me in Judge Laurence Rubin's Santa Monica Courtroom of which Marable was also a part of. 9) Punitive Damages 10) Attorney's fees.

Civil Rights Violations

42 U S C. 1981 - Equal Rights Under The Law. 42 USC 1983 Deprivation Of Civil Rights 42 USC 1985 Conspiracy to Interfere with Civil Rights, and 42 USC 1988 Attorney's Fees.

APPENDIX F

RECOMMENDED GOVERNMENT CODE SECTION 910 & 910.2 CLAIM & LATE CLAIM TO SANTA MONICA COLLEGE ET AL – DATE 26, JAN 99. (SENT ALSO 12TH DECEMBER 1998)

What sum do you claim? $1, 000, 000 - 00 cents

26th Jan 99 A Bernhardt

Section 72 of the Penal Code ...

, To The Santa Monica College and/or District Board Of Trustees: Application For Leave To Present Late Claims

This is an application for leave to present a late claim pursuant to California Government Code 911.4 a) for obstruction of justice by Santa Monica College Police Officer Ron Marable. The date of discovery of Santa Monica College Ron Marable's obstruction of justice was 17th March 1998, when I discovered that he had covered up that I had reported Santa Monica college Instructor [R] Larry Jones sexual assault of me to him in November 1996. On March 17th 98 and 20th March 1998, I made complaints in wdriting to Chief Of Santa Monica College Police Eileen Miller about Marable's obstruction of justice, and later in July 1998 to Dr. Piedad Robertson's office.

The failure to present a Government claim earlier for obstruction of justice by Santa Monica Government Code 911.6 (b) (1), and the Board Of Trustees and Santa Monica College & District is not prejudiced by my making the claim now. **Under California Government Code 911.4 (b). This application is presented within one year after the accrual of the cause cause of action - for obstruction of justice which accrued on 17th March 1998,.** California Civil Doed Of Procedure 338 is a three year statutory liability exception for fraud or

mistake. CCP 338 (4) grants relief on the grounds of fraud or mistake. The cause of action for obstruction of justice then is not to be deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake, i.e. I did not discover Santa Monica College Police Officer Ron Marable's obstruction of justice/fraud until March 17th 1998.

This is also an application for leave to present a late claim pursuant to California Government Code 911.4 a) for sexual assault by Santa Monica College Instructor Larry Jones. I did not report the sexual assault in 1994, and in hindsight that was a mistake. California Civil Code Of, Procedure 338 is a three year statutory liability exception for fraud and mistake, and CCp 338 (4) gives relief on the grounds of fraud or mistake. The cause of that case is not deemed to have accrued until the discovery by the aggrieved party of the facts constituting the fraud or mistake. I.e. I did not realize my mistake in not reporting Instructor [R] Larry Jones for his sexual assault of me until November 1996 in Santa Monica College Police Officer Ron Marable's office - when I found intentional infliction of emotional distress based on the **continuing conduct [emphasis added] of Instructor [R] Larry Jones, and so I reported him at that time for his earlier sexual assault of me, but at that point Santa Monica Police Officer Ron Marable on hearing about Instructor [R] Larry Jones's sexual assault of me, misrepresented the statute to me by saying [R] Larry Jones sexual assault of me was too old for him to report, and so he sasid he could not take**

down a report, and then later Marable fraudulently concealed that I had reported Instructor [R] Larry Jones's sexual assault to him at that time. Thus because of Santa Monica College Police Officer's fraudulent concealment and misrepresentation, the statute is tolled during Police Officer Ron Marable's misconduct i.e. from November 1996 to date.

26th Jan 1999 A Bernhardt

APPENDIX F

EXHIBITS FROM ORIGINAL COMPLAINT DISTRICT COURT DOCKET 1 –COMPLAINT EXHIBIT C1, & C2 OR [NINTH CIRCUIT EXCERPT FROM THE RECORD VOLUME 1 PAGE 49 AND 50]

SANTA MONICA COLLEGE POLICE DEPARTMENT

INCIDENT REPORT CASE NO 960712 –

RELATED NO. 96-11-25-23010

DATE AND TIME NOV 25TH 1996 – 11.54 AM

UNKNOWN SUPSECT –HEAVY BUILD – FIRST NAME OF MARY - ASSIGNED BY AGARD –

REPORTING OFFICER – [RON] MARABLE ID NO. O2

[omitted]

"...[R.L.] JONES RESTRICTED ANGELA AND MARY'S LAB PRIVILEGES FOR THE REMAINDER OF THE SEMESTER ANGELA PROCEEDED TO DROP THE PHOTOGRAPHY CLASSES..."

[omitted]

APPENDIX F

EXHIBITS FROM ORIGINAL COMPLAINT

Complaint - District Court Docket 1 –Exhibit D

Or USCA 9TH Excerpt Of The Record –Volume 1- Page 52

APRIL 1ST 1997

From Santa Monica College

To Angela Bernhardt
P.O.Box 480509
Los Angeles CA 90048

Dear Ms Bernhardt:

It has come to my attention that you may have violated the Santa Monica College Student Conduct Code.

In order to clarify this matter I am requesting that you make an appointment with me as soon as possible. Please call (310) 450 5150 extension 9880 to set up an appointment.

Failure to meet with me may result in further disciplinary action such as having a hold placed on your records at Santa Monica College.

Yours Sincerely Brenda Simmons,

Associate Dean Admissions and Records.
CC E Miller SMC Police.

Santa Monica Community College District, 1900 Pico Blvd Santa Monica CA-90405-1628 (310) 450 5150
Piedad Robertson Superintendent and President

APPENDIX F

EXHIBITS FROM ORIGINAL COMPLAINT
District Court Docket 1 Exhibit G1 & G2, or
USCA9th Excerpt Of The Record
Volume 1, Page 55 & 56

DOCUMENT - Letter to Santa Monica College Chief Of Police Department regarding Santa Monica College Police Cover Up Of petitioner's Sexual Assault complaint against a Santa Monica College Instructor.

20th March 1998

Angela Bernhardt
P.O.Box 480509
Los Angeles 90048
(310) 281 3092

To Chief Eileen Miller
Santa Monica College Police
Pearl Street
Santa Monica

20th March 1998

This is a complaint about Officer Ron Marable, because as you know I met with him last week, and discovered he is concealing the truth about our two meetings in November 1996, and is denying that I informed him in November 1996 verbally that Larry Jones a faculty member at Santa Monica College, sexually assaulted me.

The reason I spoke to Officer Ron Marable in November 1996, about Larry Jones's sexual assault of me was

APPENDIX F

EXHIBITS FROM ORIGINAL COMPLAINT

DOCUMENT - Letter to Santa Monica College Chief Of Police Department regarding Santa Monica College Police Cover Up Of petitioner's Sexual Assault complaint against a Santa Monica College Instructor.

because I was making a police report against Mary Naffziger, a female student, for harassment. Larry Jones was contacted in order to find out Mary's Naffziger's last name, because at the time I did not know it. That is why Larry Jones became involved.

When I told Officer Marable at that time in November 1996, that Instructor Larry Jones had sexually assaulted me, Officer Marable questioned me in order to determine if Larry Jones had sexually assaulted me, as Officer Ron Marable was interested to find out that my complaint against Instructor Larry Jones was indeed sexual harassment, and not merely a harmless flirtation. After hearing me describe Larry Jones's' sexual assault on me, Officer Ron Marable agreed it was sexual assault, and said he could not take a report about the sexual assault – as the matter was too old. Officer Ron Marable suggested that I report the sexual assault complaint against Larry Jones to the administration on campus.

I contacted Ron Marable last week to determine whether he remembered our discussions in November 1996, about Larry Jones sexually assaulting me, and he told me he remembered our discussions clearly, but said there were no discussions about Larry Jones's sexual assault of me. So Ron Marable is not telling the truth here, so as to cover up for his friend Larry Jones!

Ron Marable also asked me in our meeting last week what could Larry Jones's have said to him (Ron Marable) (in November 1996) that Larry Jones's had sexually

APPENDIX F

EXHIBITS FROM ORIGINAL COMPLAINT

DOCUMENT - Letter to Santa Monica College Chief Of Police Department regarding Santa Monica College Police Cover Up Of petitioner's Sexual Assault complaint against a Santa Monica College Instructor.

assaulted me after he (Ron Marable) had spoken to Larry Jones over the phone while I was there in Ron Marable's officer in November 1996 [omitted]

The answer to Officer Ron Marable's question is this – when Larry Jones in November 1996 began togive Officer Marable information over the telephone about Mary's harassment of me in a computer lab in November 1996 that Larry Jones had not witnessed and was neither in his jurisdiction while I was sitting in Ron Marable's office, I reported Larry Jones's earlier sexual assault of me to Ron Marable, because the sexual assault had happened, and because Larry Jones was poking his nose into my business again, JUST AS HE HAD EARLIER –POKED HIS PRIVATE PARTS INTO MY PRIVATE BUSINESS, AND I HAD HAD ENOUGH OF IT!

This complaint against Officer Ron Marable is because he is concealing the fact that I informed him in November 1996 that Larry Jones sexually assaulted me, and because he is concealing this, it may also follow that Officer Ron Marable and Larry Jones wanted to, and helped to malign my character to Brenda Simmon's office in Admissions for my formal police complaint against Mary Naffziger harassing me, and cause me more problems there![Omitted]

Sincerely Angela Bernhardt

CC. Dr. Robert Sammis

CC. Dr. Robert Adams.

APPENDIX F

Document - Letter from Santa Monica College Vice President Of Human Resources Robert L Sammis July 27th 1998 – To Angela Bernhardt petitioner.

EXHIBITS FROM ORIGINAL COMPLAINT
District Court Docket 1 –Exhibit I
Or USCA 9TH Excerpt Of The Record –Volume 1- 59

From Santa Monica College
To Angela Bernhardt
P.O.Box 480509 Los Angeles CA 90048

Dear Ms Bernhardt:

It has come to my attention that you have contacted the District's President/Superintendent in order to arrange a meeting, with the President/Superintendent concerning your sexual harassment complaint.

[omitted & COMPLAINT AGAINST SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE)

On or about May 11th 1998 you received a letter from the President of the Board Of Trustees Nancy Cattel [Luckenbach] advising you that the Board of Trustees reviewed your written appeal and concurred with the administrative review of your complaint. Also the letter informed you that the Board Of Trustee's had completed review of your complaint and advised you that you may file a petition for review with the Chancellor of the California Community Colleges. Please be advised that the District will not review your complaint any further. Sincerely Robert L. SammisVice President Human Resources.

APPENDIX F
EXHIBITS FROM ORIGINAL COMPLAINT

Santa Monica Community College District, 1900 Pico Blvd Santa Monica CA-90405-1628 (310) 450 5150
Piedad Robertson Superintendent and President

EXHIBITS FROM ORIGINAL COMPLAINT DOCUMENT – CHARACTER REFERENCE BY JOSH KANIN

District court docket 1 Exhibit L1,
or USCA 9th Excerpt Of the Record Volume 1, Page 63

September 24th 1998

To Whom It May Concern:

I am a full time Instructor in the Department of Communications at Santa Monica College. Angela Bernhardt was a student in several of my Cinema Classes, that were taught over the past couple of years.

In all of my dealings with her within SMC's academic community, I have found her to be likeable, honest,and hardworking. I can fully attest to the strength of her character, to her high moral and ethical standards, and to her overall personal integrity. She is that rare individual that I would place a great deal of trust in.

If you would like any further explanation of these comments, please feel free to contact me at (310) 285 – 8520.

September 24th 1998

APPENDIX F
EXHIBITS FROM ORIGINAL COMPLAINT DOCUMENT – CHARACTER REFERENCE BY JOSH KANIN

District court docket 1 Exhibit L1,
or USCA 9th Excerpt Of the Record Volume 1, Page 63

September 24th 1998

Sincerely

Josh Kanin
Professor Cinema
Department Of Communications
Santa Monica College

APPENDIX - F

DOCUMENT - MEMORANDUM TO HON LAURENCE D RUBIN SUPERIOR COURT OF CALIFORNIA COUNTY OF LOS ANGELES WEST DISTRICT FROM CANDACE D. COOPER SUPERVISING JUDGE

EXHIBITS FROM ORIGINAL COMPLAINT
[District Court 1 – complaint - Exhibit M, or USCA 9TH Circuit Excerpt Of The Record Volume 1 –Page 66]

CANDACE D. COOPER
SUPERVISING JUDGE.
1725 MAIN STREET
SANTA MONICA CA 90401
(310) 260 3762

MEMORANDUM

TO: Hon Laurence Rubin
Ms. Lois Teitz

From Candace D Cooper, Supervising/ Presiding Judge

DATE: December 1, 1998

RE: Angela Bernhardt vs. Ron Marable, Police Department Of Santa Monica College, Santa Monica College SM98A01437

APPENDIX F

MEMORANDUM TO HON LAURENCE D RUBIN
SUPERIOR COURT OF CALIFORNIA
COUNTY OF LOS ANGELES WEST DISTRICT
CANDACE D. COOPER
SUPERVISING JUDGE.

Ms. Bernhardt was the plaintiff in the above entitled Small Claims Action, heard in by Judge Laurence Rubin on Oct 6 1998. In correspondence to the Court, MS. Bernhardt has requested the return of a document believed to remain in possession of the Court. Ms. Bernhardt describes the item as follows: Copy Of Police Report.

1725 MAIN STREET
SANTA MONICA CA 90401

Please check the file of this action and return the copy of the Police report, if located, to Ms Bernhardt at the following address:

Ms. Angela Bernhardt
P.O.Box 480509 Los Angeles California 90048.
Thanks for your attention to this request.

APPENDIX F

EXHIBITS FROM ORIGINAL COMPLAINT SHERIFF LEROY D BACA'S LETTER TO ANGELA BERNHARDT REGARDING COUNTY OF LOS ANGELES SHERIFF'S INVESTIGATION OF PETITIONER'S ALLEGED ASSAULT AND BATTERY/EXCESSIVE FORCE AND FALSE ARREST COMPLAINT AGAINST THE CAUCASIAN SHERIFFS.

Note: LOCATION OF EXHIBIT - District Court Docket 1 – Exhibit P1 P1 & (Ninth Circuit Excerpt Of Record V1 – Page 71)

County Of Los Angeles Sheriff's Department
Headquarters 4700 Ramona Boulevard Monterey Park California 91754-2169 Leroy D Baca Sheriff
February 5th 1999

Ms. Angela Bernhardt
P.O. Box 480509 Los Angeles California 90048

Dear Ms. Bernhardt
On Dec 7th 1998, you filed a complaint regarding the actions of Sheriff's Department personnel who are assigned to Court Services West Bureau, Santa Monica Branch. In your complaint, you allege that on Oct 6th 1998, an unidentified Caucasian male bailiff at the Santa Monica Branch kicked your legs from underneath you and forced you to the floor of the courtroom. You further allege that the unidentified bailiff was then joined by two other Caucasian male deputies who struck your body with their fists approximately twenty times before they took you into custody. I instructed Court Services west bureau captain Irene McReynolds to investigate your complaint, since the personnel involved are assigned to her command. Captain

APPENDIX F

COUNTY OF LOS ANGELES SHERIFF LEROY D BACA'S LETTER TO ANGELA BERNHARDT REGARDING THE COUNTY OF LOS ANGELES SHERIFF'S INVESTIGATION OF ALLEGED ASSAULT AND BATTERY OF HER, EXCESSIVE FORCE AND FALSE ARREST COMPLAINT AGAINST THE COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT ET AL.

SHERIFF'S LETTER ATTACHED TO ORIGINAL COMPLAINT

[Note: LOCATION OF EXHIBIT - District Court Docket 1 – Exhibit P1 & (Ninth Circuit Excerpt Of Record V1 – Page 71]

McReynolds has completed her investigation and I have reviewed the results.Our investigation revealed that on Oct 6th 1998, you appeared before Judge Rubin in Department R of the Santa Monica Superior Court as the plaintiff in a Small Claims matter. After the judge rendered a decision that.was not favorable to you, it became necessary for the bailiff, Deputy Terry January to stop you after you ignored his verbal instructions to halt your approach to the judge Our investigation also revealed that when Deputy January positioned himself in a manner that created a physical barrier between you and the judge, you tried to push your way past him. Your action created the need for Deputy January to physically restrain you. Your refusal to obey Deputy January's instructions, your physical efforts to circumvent his attempts to stop your advance and your physical resistance of his efforts to restrain you made it necessary for him to use the amount of force reasonably necessary to detain you.

A Tradition of Service

Page 2

Ms. Angela Bernhardt February 5th 1999

APPENDIX F

EXHIBITS FROM ORIGINAL COMPLAINT COUNTY OF LOS ANGELES SHERIFF LEROY D BACA'S LETTER TO ANGELA BERNHARDT REGARDING SHERIFF'S INVESTIGATION OF HER ALLEGED ASSAULT AND BATTERY - EXCESSIVE FORCE AND FALSE ARREST COMPLAINT AGAINST THE COUNTY OF LOS ANGELES SHERIFFS.

(Note: Location oF Exhibit - Original Complaint - District Court Docket 1- Exhibit P2)(Ninth Circuit Excerpt Of Record V1 – Page 72)

Although our investigation revealed that you were taken to the ground by Deputy January during his effort to restrain you, there is no evidence to support your allegation that you were struck or punched during this incident. **Finally, our investigation revealed no evidence to corroborate your allegation that three Caucasian male sheriffs deputies were involved in the effort to detain you. It should be noted** that both **Deputy January** and the Santa Monica police officer who assisted Deputy January are **of African – American descent.** In essence, our investigation revealed no evidence to substantiate your allegation of misconduct against the Sheriff's personnel who detained you. In light of these factors, it appears that your complaint does not warrant further action at this time.

I appreciate your having brought this matter to my attention. Ensuring the proper performance of Sheriff's Department personnel is my top priority and I welcome the opportunity to evaluate their conduct.

The Sheriff's department is concerned about public confidence in its investigation of public complaints. ... [omitted] Sincerely, Lee Baca Leroy D Baca Sheriff

APPENDIX - F

EXHIBITS FROM THE RECORD
Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment - Angela Bernhardt

[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1
Ninth Circuit Excerpt Of The Record Volume 1 page 98
Santa Monica College]

Memorandum

HUMAN RESOURCES OFFICE

TO: Ms. Angela Bernhardt
Santa Monica College

FROM: Robert L. Sammis J.D.
Vice President, Human Resources

DATE: February 9, 1998

SUBJECT: **Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment - Angela Bernhardt**

1. The attached documentation is a summary of the investigation report into the formal complaint of harassment submitted by you which you alleged harassment by Mr. Larry Jones, an instructor within the Art Department. This summary report is being provided

APPENDIX F

Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1

Ninth Circuit Excerpt Of The Record Volume 1 page 98

Santa Monica College]

2. to you in accordance with Section 2 D of Administrative Regulation 4112.2f of the Diversity/Affirmative Action

3. Plan for Santa Monica Community College District dated 1995, copy at Attachment. It has been determined per the attached investigation summary that no action in violation of the District's policies and procedures regarding discrimination and harassment has occurred and the recommendations specified in the report will be implemented.

4. You have the right to appeal to the District's governing Board and the Chancellor pursuant to California Code Of Regulations, Title V, Section 59338, within fifteen (15) days upon receipt of the determination, copy at attachement. [Please Note: No Copy at attachment] This appeal must be submitted in writing. The Board will review the original complaint, the investigative report, the administrative determination and the appeal and issue a final decision within forty-five

5. (45) days. A copy will be provided to you. If the Board does not act within the 45 day period, the administrative

6. determination shall be deemed approved and shall become the final decision in the matter.

APPENDIX F

Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1 Ninth Circuit Excerpt Of The Record Volume 1 page 98 Santa Monica College]

7. At any time during the District's process, you also have the right to file a complaint with the Department of Education, Office Of Civil Rights, in accordance with Title IX of the Education Amendments of 1972. The address and telephone number are as follows:

FILED APRIL 27TH 99 AT 1.33P.M.

Summary of the Investigation into allegations of Sexual Harassment Against Mr. [R] Larry Jones, Instructor, Art Department, by Ms. Angela Bernhardt, Student

1. Ms Angela Bernhardt, a current student at Santa Monica College, made a statement in a May 28th, 1997 letter to Ms. Brenda Simmons, Associate Dean, Admissions and Records, regarding a possible disciplinary action involving a conflict with another student that she had been sexually harassed by Mr. Larry Jones, and instructor in the Art Department (See Attachment A). Her statement is quoted in part: " [R] Larry Jones also condones harassment of students, as I have been sexually harassed by him in his Photo 50 class."

APPENDIX F

EXHIBITS FROM THE RECORD

Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1 Ninth Circuit Excerpt Of The Record Volume 1 page 98

II. **Investigation Interviews and Summaries** The following individuals were interviewed in conjunction wth this investigation.

a. Ms. Angela Bernhardt, student, Sept 17 & 19, 1997.
b. Mr. Larry Jones, Instructor, Art Department, September 29th 1997.
c. Dr. Dorothy Gelvin, Dean, Personnel, Sept 9th 1997
d. Mr. Daniel Cano, Dean, Admissions and Records, September 10th 1997

[{NOTE: SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE WAS NOT INTERVIEWED]

III Key Factual Findings Of The Investigation

a. Ms. Bernhardt did not file a complaint or inform District personnel of the alleged sexual harassment alluded to in her statement of May 28th 1997.

[NOTE: PETITIONER HAS ALLEGED SHE REPORTED THE COMPLAINT TO SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE ON NOV 25TH 1996]

APPENDIX F

EXHIBITS FROM THE RECORD

Santa Monica College Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

[Note: Location Of Exhibit in record - District Court Docket 14 Exhibit I1 Ninth Circuit Excerpt Of The Record Volume 1 page 98

b. There were other students in the class during the alleged incident but Ms. Bernhardt was unaware that they observed or heard anything concerning the situation.

[Note: Class was a Photographic darkroom]

c. Mr. Jones categorically denies having any contact with Ms. Bernhardt or behaving in any way that could be construed as sexually harassing while she was a student in his class or otherwise.

e. There are no witnesses to the alleged incident.

IV. Conclusions

As a result of the investigation information provided it has been concluded that:

a There is no information or evidence to corroborate or substantiate the incident alleged by Ms. Bernhardt.

b. There is no evidence to infer that the District's policy of non-discrimination and harassment have been violated.

v. Recommendations

APPENDIX F

Administrative Determination and Summary of Investigation into Allegations of Sexual Harassment – Angela Bernhardt

The goal of any investigation of possible violations of District Policies and procedures is to stop the negative action behavior and find a workable solution for the good of the individuals involved and the organization. The following recommendations are based upon the information obtained during the conduct of the investigation.

A. Ms. Bernhardt and Mr. Jones to be informed of the District's policy against discrimination and harassment and the options and reporting procedures available to staff and students when such incidents should occur.

B. Ms. Bernhardt and Mr. Jones to be provided copies of the information folder on sexual harassment from the State Department Of Fair Employment and Housing and the no discrimination and harassment folder distributed by the Santa Monica Community College District.

C. This investigation document remain active and be closed one (1) year following the document date with file retention to be not more than three (3) years.

[LOCATION OF DOCUMENT - District Docket 14 Exhibit I 2 & I 3

Ninth Circuit Excerpt From The Record Volume 1 Page 99 & 100]

APPENDIX F

EXHIBITS FROM THE RECORD

RESULTS OF SANTA MONICA COLLEGE'S SEXUAL HARASSMENT AND UNLAWFUL DISCRIMINATION INVESTIGATION

[Location Of Document] District Court Docket 14 Exhibit J]& [Ninth Circuit Excerpt Of The Record Volume 1 Page 101]

CONFIDENTIAL

Santa Monica College

November 3, 1997

Ms. Angela Bernhardt

P.O. Box 480509

Los Angeles, California 90048

Dear Ms. Bernhardt

In accordance with paragraph 2B of Santa Monica Community College District's (SMCCD) Administrative Regulation 4112.2f, Unlawful Discrimination, Affirmative Action, Title IX and Sexual Harassment Complaint procedures for Job Applicants, Employees and Students, and investigation was conducted into your allegation of sexual harassment, dated June 16th 1997, by Mr. Larry Jones, and instructor within the Art department. The results of the investigation determined there was no violations of the District's policy against unlawful discrimination, to include sexual harassment and a one (1) time occurrence of an action, where the individual was put on notice about the incident, does not constitute harassment. A copy of the complete investigation is on file within the Human Resources Office.

The SMCCD is committed to an environment free of unlawful discriminatory and harassment practices and encourages its faculty, staff and students to report such occurrences in a timely fashion, or as soon as possible to

APPENDIX – F

RESULTS OF SANTA MONICA COLLEGE'S SEXUAL HARASSMENT AND UNLAWFUL DISCRIMINATION INVESTIGATION

[Note: Location Of Document] District Court Docket 14 Exhibit J]& [Ninth Circuit Excerpt Of The Record Volume 1 Page 101]

appropriate District authority. Enclosed for your information, please find a copy of the SMCCD brochure on unlawful discrimination, and the California Department of Fair Employment and Housing's brochure on sexual harassment.

Please contact me at 310 -452 9361 if you have questions or require additional information regarding this correspondence.

Sincerely

Jo Ann R Fielder Assistant Dean, Equal Employment Opportunity Diversity

Santa Monica Community College District, 1900 Pico Blvd Santa Monica CA-90405-1628 (310) 450 5150

Piedad Robertson Superintendent and President

[Note: LOCATION OF DOCUMENT - District Court Docket 14 Exhibit J Ninth Circuit Excerpt Of The Record Volume 1 Page 101]

APPENDIX F
EXHIBITS FROM THE RECORD

COUNTY OF LOS ANGELES (PROPOSED ORDER) THAT INCLUDES COUNTY OF LOS ANGELES SHERIFFS TERRY JANUARY AND SHERIF SHERMAN MOTEN IN THEIR MOTION TO DISMISS.
LODGED AUGUST 25TH 1999 - 3.40 p.m.
PLACED IN FILE NOT USED 10/1/99

County Of Los Angeles
LLOYD W PELLMAN, County Counsel
LOUIS V AGUILAR, Assistant County Counsel
JONATHAN H. GELLER Senior Deputy County Counsel
STATE BAR No: 15908
500 West Temple Street
648 Hall Of Administration, Los Angeles California 90012-2713
(213) 974 -1900
Attorneys for Defendants

COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY**

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

APPENDIX – F

COUNTY OF LOS ANGELES (PROPOSED ORDER) THAT INCLUDES COUNTY OF LOS ANGELES SHERIFFS TERRY JANUARY AND SHERIF SHERMAN MOTEN IN THEIR MOTION TO DISMISS.

LODGED AUGUST 25TH 1999 - 3.40 p.m.
PLACED IN FILE NOT USED 10/1/99
CASE NO. CV-99-2598-JSL

[COUNTY OF LOS ANGELES] (PROPOSED) ORDER

ANGELA BERNHARDT Plaintiff

VS

[OMITTED] , COUNTY OF LOS ANGELES, a public entity, COUNTY OF LOS ANGELES SHERIFF'S DEPT, a public entity, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, a public entity, LAURENCE D RUBIN in his individual and official capacity. 1-10 CAUCASIAN MALE SHERIFF DEPUTY DOES & 1 -2 AFRICAN AMERICAN FEMALE SHERIFF DEPUTY DOES, OF JUDGE LAURENCE D RUBIN'S COURTROOM R & COUNTY OF LOS ANGELES SHERIFF'S DEPT, in their individual and official capacity [emphasis added]LA COUNTY SHERIFF LEROY D BACA in his individual and official capacity **SHERIFF SHERMAN MOTEN SHERIFF TERRY JANUARY in their individual and official capacity [empahsis added]** OFFUNE OBIAMIWE in her individual and official capacity, SHERIFF DEPUTY DOES 1-50 in individual and official capacity, and DOES 1 through 100, Defendants.

APPENDIX F

COUNTY OF LOS ANGELES (PROPOSED ORDER) WHICH INCLUDES COUNTY OF LOS ANGELES SHERIFFS TERRY JANUARY AND SHERIFF SHERMAN MOTEN IN THEIR MOTION TO DISMISS.

LODGED AUGUST 25TH 1999 - 3.40 p.m.
PLACED IN FILE NOT USED 10/1/99
CASE NO. CV-99-2598-JSL

[COUNTY OF LOS ANGELES] (PROPOSED) ORDER Defendant's COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D. RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY COUNTY OF LOS ANGELES's motion to dismiss for failure to state a claim upon which relief can be granted under F.R.C.P. Rule 12 (b) (6)** came on for hearing by the court on Oct 4th 1999, before the Honorable J. Spencer Letts, Judge of the United States District Court, Central District. **This court having considered the papers in support of and in opposition to the motion, oral argument having been heard. GOOD CAUSE HAVING BEEN SHOWN, THIS COURT HEREBY GRANTS defendants** COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D. RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY'S motion to dismiss on the following grounds:**

A judge enjoys absolute judicial immunity from suits for damages involving actions or omissions which fall with the scope of judicial acts. [Mireles v.Waco (1991) 502 U.S.9. 112 S.Ct 286.

APPENDIX F

COUNTY OF LOS ANGELES (PROPOSED ORDER) FOR THEIR MOTION TO DISMISS WHICH INCLUDES SHERIFF TERRY JANUARY AND SHERIF SHERMAN MOTEN IN THE MOTION TO DISMISS.

The County Of Los Angeles is not liable under a theory of respondeat superior for acts or omissions committed by an employee (s) of the public entity. Monell v. New York City Dept of Soc Servs. (1978) 436 U.S. 658. Plaintiff cannot stae a cause of action for 42 USC Section 1983 against defendant COUNTY OF LOS ANGELES in that Plaintiff fails to plead facts to demonstrate an existing custom or policy of the defendant causing damage. Plaintiff cannot state a cause of action for 42 USC Section 1983 against defendant Lee Baca because he enjoys immunity from liability under the Eleventh Amendment. County Of Los Angeles v Superior court (Cal. App.2 District 1988) 68 Cal. App. 4th 1166). Plaintiff cannot maintain an action in District Court in the absence of some viable claim for violation of her constitutional rights, therefore any common law cause of action should be dismissed.

Accordingly, **THE COURT HEREBY ORDERS plaintiff's entire action dismissed as to defendants** COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D. RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY.**

Judgment shall be entered accordingly.

DATED: _____, 1999

HONORABLE J. SPENCER LETTS.

[LOCATION CDC DISTRICT DOCKET 42 - PROPOSED ORDER FOR COUNTY OF LOS ANGELES MOTION TO DISMISS & NINTH CIRCUIT COURT OF APPEALS EXCERPT OF THE RECORD VOLUME 3 PAGE 1, 2, 3, 4.]

APPENDIX – F

ENTERED AUGUST 30TH 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 2

FILED AUGUST 25TH 1999

[LOCATION DISTRICT COURT DOCKET 42]

LlOYD W PELLMAN, County Counsel

LOUIS V AGUILAR, Assistant County Counsel

JONATHAN H. GELLER Senior Deputy County Counsel STATE BAR No: 15908 500 West Temple Street 648 Hall Of Administration, Los Angeles California 90012-2713 (213) 974 -1900

Attorneys for Defendants

COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN, LEE BACA, **Sheriffs SHERMAN MOTEN and TERRY JANUARY**

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

CASE NO. CV-99-2598-JSL

NOTICE OF MOTION AND MOTION TO DISMISS PLAINTIFF'S COMPLAINT; AND MEMORANDUM OF POINTS AND AUTHORITIES THEREON

F.R.C.P. RULES 12 (b)

DATE OCT 4TH 1999, TIME 1.P.M. COURTROOM "4"

ANGELA BERNHARDT Plaintiff VS

APPENDIX F

ENTERED AUGUST 30TH 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 2

FILED AUGUST 25TH 1999

[LOCATION DISTRICT COURT DOCKET 42]

[OMITTED]

COUNTY OF LOS ANGELES, a public entity, COUNTY OF LOS ANGELES SHERIFF'S DEPT, a public entity, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, a public entity, LAURENCE D RUBIN in his individual and official capacity.

1-10 CAUCASIAN MALE SHERIFF DEPUTY DOES & 1 -2 AFRICAN AMERICAN FEMALE SHERIFF DEPUTY DOES, OF JUDGE LAURENCE D RUBIN'S COURTROOM R & COUNTY OF LOS ANGELES SHERIFF'S DEPT, in their individual and official capacity [emphasis added]LA COUNTY SHERIFF LEROY D BACA in his individual and official capacity **SHERIFF SHERMAN MOTEN SHERIFF TERRY JANUARY** in their individual and official capacity **[empahsis added]** OFFUNE OBIAMIWE in her individual and official capacity, SHERIFF DEPUTY DOES 1-50 in individual and official capacity, and DOES 1 through 100, Defendants.

TO PLAINTIFF IN PRO PER:

PLEASE TAKE NOTICE that on Oct 4th, 1999, at 1.00 p.m. in Courtroom "4" of the above-entitled court, located at 312 N. Spring Street, Los Angeles, California 90012, defendants **COUNTY OF LOS ANGLEES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN, AND LEE BACA, for themselves alone, will and hereby do move this Honorable Court For An Order dismissing plaintiff's action as to moving defendants in its entirety and with prejudice.**

APPENDIX F

ENTERED AUGUST 30TH 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 2

FILED AUGUST 25TH 1999

This Motion is made pursuant to the F.R.C. P. Rule 12 (b) (6) on the grounds that each and every cause of action in plaintiff's first amended Complaint fails to state a cause of action against these moving defendants for which relief can be granted... [OMITTED]

[Location of document -District Court Docket 42 - County Of Los Angeles Motion To Dismiss Page 2] & [Ninth Circuit Excerpt Of Record Volume 3 Page 8.]

APPENDIX F
ENTERED AUGUST 30TH 1999.
EXHIBITS FROM THE RECORD
EXCERPT FROM COUNTY OF LOS ANGELES MOTION TO DISMISS PAGE 14
FILED AUGUST 25TH 1999

[omitted] VIII. CONCLUSION

For the foregoing reasons moving defendants [emphasis added] respectfully request that this Court dismiss plaintiff's action **with prejudice,** or, in the alternative, require plaintiff to provide a **more definite statement** to which **moving defendants** could appropriately respond

DATED: August 25th 1999. Respectfully submitted, LLOYD W. PELLMAN County Counsel By Jonathan H. Geller Senior Deputy County Counsel

Attorneys for Defendants COUNTY OF LOS ANGELES, COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT, COUNTY OF LOS ANGELES SANTA MONICA MUNICIPAL COURT, LAURENCE D RUBIN AND LEE BACA. **Sheriffs SHERMAN MOTEN and TERRY JANUARY [emphasis added]**

[Location Of Motion To Dismiss- District Court Docket 42 - County Of Los Angeles Motion To Dismiss Page 14 Ninth Circuit Excerpt Of Record Volume 3 Page 20.]

APPENDIX – F

FILED SEPT 3RD 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM SANTA MOTION COLLEGE'S MOTION TO DISMISS PAGE 19

LOCATION Santa Monica College Et Als Motion To Dismiss - District Court Docket 43 - Page 19 Ninth Circuit Court Of Appeals Excerpt From Record - Volume 3 Page 46

SANTA MONICA COLLEGE ET AL'S MOTION TO DISMISS

Mary L. Dowell -State Bar No. 78763

Albert Nicholson -State Bar No. 170902

LIEBERT, CASSIDY AND FRIERSON

6033 W Century Blvd. Suite 601

Los Angeles California 90045-6415

(310) 645 6492

Attorneys For Defendants:

SANTA MONICA COLLEGE, SANTA MONICA COMMUNITY COLLEGE DISTRICT, SANTA MONICA COLLEGE BOARD OF TRUSTEES, SANTA MONICA COLLEGE POLICE DEPT., R.L. JONES RON MARABLE EILEEN MILLERPIEDAD ROBERTSON, ROBERT SAMMIS JOANNE. FIELDER, BRENDA SIMMONS, HERB RONEY, DOROTHY EHRHART MORRISION, NANCY CATTELL CAROL L. CURRY, ILLONA JO KATZ, PATRICK NICHELSON, ANNETTE SHAMEY.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

APPENDIX F

FILED SEPT 3RD 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM SANTA MOTION COLLEGE'S MOTION TO DISMISS PAGE 19

LOCATION Santa Monica College Et Als Motion To Dismiss - District Court Docket 43 - Page 19 Ninth Circuit Court Of Appeals Excerpt From Record - Volume 3 Page 46

ANGELA BERNHARDT Plaintiff

v.

SANTA MONICA COLLEGE et al, Defendants

CASE N0. 99-2598 -JSL (RNBx)

NOTICE OF MOTION AND MOTION TO DISMISS PURSUANT TO FRCP 12 (b) (6) AND/OR IN THE ALTERNATIVE MOTION FOR A MORE DEFINITE STATEMENT PURSUANT TO F.R.C.P. 12 (e)

MEMORANDUM OF POINTS AND AUTHORITIES (FRCP, Rule 12 (b) (6); 12 (e)

Date Oct 4th 1999 Time: 1.00 p.m. Dept: 4 [omitted]

G. THE STATE LAW CLAIMS AGAINST THE SANTA MONICA COLLEGE DEFENDANTS ARE ALL BARRED BY THE DOCTRINE OF RES JUDICATA, BY THE FAILURE TO PRESENT A TIMELY CLAIM, AND BY THEIR VAGUENESS AND AMBIGUITY.

APPENDIX F

FILED SEPT 3RD 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM SANTA MOTION COLLEGE'S MOTION TO DISMISS PAGE 19

The Complaint, as it relates to the Santa Monica College Defendants, actually consists of a confused series of common law state tort claims. The Court should decline to assert any jurisdiction over them whatsoever. First this Court has no reason to do so since all Plaintiff's ostensible federal claims for relief are barred as discussed above. Second, most, if not all, are apparently barred by the doctrine of res judicata. Furthermore each of them is barred by applicable limitations periods. Finally none of them are intelligible, and must be dismissed as impermissibly vague and ambiguous.

1. The state tort claims are barred by res judicata

Pursuant to the Complaint itself, it appears that Plaintiff's court action in Santa Monica Municipal court involved all the same state court causes of action that she has included here. She cannot relitIgate in federal court claims already dismissed by state court. The state court case was dismissed. That determination is res judicata as to those claims, and this Court has no jurisdiction over them.

2. The state tort claims are barred by the failure to present timely claims

Plaintiff's tort claims (battery, defamation, intentional infliction of emotional distress, intentional misrepresentation, negligence, false arrest, "unlawful detainment," unlawful search," assault and battery *) are all barred by her failure to present timely claims

APPENDIX F

FILED SEPT 3RD 1999.

EXHIBITS FROM THE RECORD

EXCERPT FROM SANTA MOTION COLLEGE'S MOTION TO DISMISS PAGE 19

to the Defendant Santa Monica Community College District. This fact was recognized by the Municipal Court which heard Plaintiff's first lawsuit, resulting in the dismissal of her claims in small claims court. Although Plaintiff now alleges that she has tendered the requisite claims, she has not and cannot allege timely compliance with the law.

[Note* CLARIFYING THE SANTA MONICA COLLEGE ET ALS MISREPRESENTATION OF THE SMALL CLAIM: The Small Claim action filed on 2nd Sept 1998 was for the cause of action " Emotional Injury Due To Police cover up of a sexual assault complaint, negligence and defamation"

[NOTE: THIS SMALL CLAIM DID NOT INCLUDE ANY CIVIL RIGHTS CAUSE OF ACTIONS FOR SEXUAL DISCRIMINATION NOR ANY STATE TORT CLAIMS FOR ABUSE OF PROCESS, BATTERY, INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS, FALSE ARREST, UNLAWFUL DETAINMENT UNLAWFUL SEARCH, ASSAULT AND BATTERY, NOR WAS THE ALLEGED PERPETRATOR OF SEXUAL ASSAULT AND CONTINUING DISCRIMINATION INCLUDED AS A DEFENDANT .]

[LOCATION Santa Monica College Et Als Motion To Dismiss - District Court Docket 43 - Page 19 Ninth Circuit Court Of Appeals Excerpt From Record - Volume 3 Page 46]

APPENDIX F

EXHIBITS IN THE RECORD
_COUNTY OF LOS ANGELES SANTA MONICA COURTHOUSE - SHERIFF'S REPORT ON EXCESSIVE FORCE FOR 6TH OCT 1998

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT
WATCH COMMANDER'S REPORT No. 69159

[DISTRICT COURT DOCKET 49 - REFERRED TO IN 1ST AMENDED COMPLAINT AS EXHIBIT Z117 OR EXHIBIT X].

NINTH CIRCUIT EXCERPT OF THE RECORD - VOLUME 2 - PAGE 124

Has any member of the Department attempted to discourage you in any way from bringing this matter to the attention of the Department.

DATE 12/7/98

BERNHARDT ANGELA 310 281 3092

P.O.BOX 480509 LOS ANGELES 90048

CALIFORNIA

10/6/98 10.45P.M. SANTA MONICA/ SANTA MONICA CRT4400

LOCATION ADDRESS - 1725 MAIN STREET

SYNOPSIS OF CONTACT EVENT

Ms. Bernhardt states that while she was before Judge [Laurence D] Rubin Dept R, she turn to one of three deputies to give him three sheets of paper. Ms. Bernhardt stated that her legs were then kicked from under her forcing her to the floor, hit approximately twenty times, taken into custody.

WITNESS INFORMATION

APPENDIX F

COUNTY OF LOS ANGELES SANTA MONICA COURTHOUSE - SHERIFF'S REPORT ON EXCESSIVE FORCE FOR 6TH_OCT 1998 EXHIBITS IN THE RECORD

LOS ANGELES COUNTY SHERIFF'S DEPARTMENT

WATCH COMMANDER'S REPORT No. 69159

[DISTRICT COURT DOCKET 49 - REFERRED TO IN 1ST AMENDED COMPLAINT AS EXHIBIT Z117 OR EXHIBIT X].

COUNTY OF LOS ANGELES SHERIFF'S REPORT ON EXCESSIVE FORCE 6THOCT 1998

JUDGE [LAURENCE D] RUBIN

WATCH COMMANDER (PERSON COMPLETING FORM) SHERMAN MOTEN EMPLOYEE NO 064827

[LOCATION DISTRICT COURT DOCKET 49 - REFERRED TO IN 1ST AMENDED COMPLAINT AS EXHIBIT Z117 OR EXHIBIT X.

NINTH CIRCUIT EXCERPT OF THE RECORD - VOLUME 2 - PAGE 124]

EXHIBIT F

DATE WRITTEN BY SHERIFF SHERMAN MOTEN 7TH DEC 1998 –

DOCUMENT - Continuation Of County Of Los Angeles County Sheriff' Sherman Moten's Report For Courtroom Incident Of 10/6/98 That Sheriff Sherman Moten Refused To Incorporate Into Main Watch commander's Report Or Sign.

EXHIBITS FRO M THE RECORD

[Note: * Sheriff Sherman Moten wrote Petitioner's birth date BUT not the actual date 7TH December 1998 on his notes!]

1./25/51*

Ms. Bernhardt said that one of the deputies embedded his finger nails into her left hand, She also received a bruise on her right leg at the knee, and suffered internal injuries from the punches, was falsely arrested, and her glasses were torn from her face. Ms. Bernhardt does not recall the deputies names, however she can i[n]dentify the deputies involved. Ms. Bernhardt also stated the deft Ron Marable [Santa Monica College Police] also assisted.

[District Court Docket 49 - Referred To In 1st Amended Complaint As Exhibit Z118 Or Exhibit Xx. Ninth Circuit Excerpt Of The Record - Volume 2 - Page 125].

EXHIBITS FROM THE RECORD FILED **25th JAN, 2000**

ORDER FROM UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT RE: LACK OF JURISDICTION

UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT DOCKET NO 99-56890

ANGELA BERNHARDT, -Plaintiff-Appellant, v.

SANTA MONICA COLLEGE, a public entity; et al., Defendants-Appellees. Nos. 99,56890

APPENDIX F

FILED 25th JAN, 2000

ORDER UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT RE: LACK OF JURISDICTION

UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT DOCKET NO 99-56890

EXHIBITS FROM THE RECORD

PRIOR HISTORY

D.C. #. CV-99-2598-JSL.

J. Spencer Letts, District Judge, Presiding. : Appeals from the United States District Court for the Central District of California.

Before: BEEZER, O'SCANNLAIN, , and THOMAS, Circuit Judges.

A review of the record demonstrates that this court lacks jurisdiction over this appeal because the order challenged in the appeal is not final or appealable. See FED. R. Civ. P. 54 (b); Chacon v. Babcock, 640 F. 2d 221 (9th Circ. 1981) (order is not appealable unless it disposes of all claims as to all parties or judgment is entered in compliance with rule). Consequently, this appeal is dismissed for lack of jurisdiction

APPENDIX F

FILED 4TH OCT 1999 –12: 54 P.M.
PLAINTIFF ANGELA BERNHARDT'S OPPOSITION TO COUNTY OF LOS ANGELES DEFENDANTS MOTION TO DISMISS UNDER F.R.C.P.12 (b)

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
Case NO CV -99–2598 - JSL

DATE: OCTOBER 4TH 1999 TIME: 1 P.M.
PLACE: COURTROOM #4 HON J SPENCER LETTS

Angela Bernhardt

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COMEES NOW ANGELA BERNHARDT and submits the enclosed opposition to defendants motion to dismiss Plaintiff's complaint under Federal Rule 12 (b).

This opposition to defendants COUNTY OF LOS ANGELES MOTION TO DISMISS is made on the following grounds:

1.PLAINTIFF ANGELA BERNHARDT has stated a cause of action for constitutional rights violation 42 USC, section 1983, 1985 (2) (3) and common law torts committed against plaintiff by LAURENCE D RUBIN in that defendant does not enjoy absolute judicial immunity for acts or omissions that do not fall into the category of judicial acts - and Plaintiff was only put on notice unequivocally, that defendant Laurence D Rubin's acts and omissions were non –judicial in nature AFTER PLAINTIFF RECEIVED COUNTY OF LOS ANGELES MOTION TO DISMISS in September 1999, and therefore would not have been able to state that Judge Laurence D Rubin's acts and omissions were non -judicial in her First Amended Complaint filed with this Court on 6th July, 1999, as the County Of Los Angeles defendants were not required to respond to Plaintiff's original complaint, and the issue of absolute immunity for judicial acts was not raised by the County Of Los Angeles Senior Deputy County Counsel Jonathan H Geller before County Of Los Angeles Motion To Dismiss papers that were served August 26th, 1999.

2.PLAINTIFF ANGELA BERNHARDT is not stating a cause of action for civil rights violations under 42 USC Section 1983 and 1985 against defendant COUNTY OF LOS ANGELES for acts or omissions committed by employee (s) of the County Of Los Angeles under a theory of respondeat superior;

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3.PLAINTIFF ANGELA BERNHARDT has stated a cause of action for civil rights violation under 42 USC Section 1983 and/or 1985 against defendant COUNTY OF LOS ANGELES in that plaintiff has plead facts in her first amended complaint, demonstrating an existing custom or policy of the defendant causing damage as allegedly suffered by Plaintiff; Please see page 43, first amended complaint lines 11-21 " Thus there is a total fragmentation of the total human act, no one is confronted with the consequences of his decision to carry out the evil act. The person who assumes responsibility - JUST AS THE CAUCASIAN SHERIFF'S DEPUTIES IN JUDGE LAURENCE D RUBIN'S SANTA MONICA COUNTY OF LOS ANGELES COURTROOM -HAVE EVAPORATED, PERHAPS THAT IS THE MOST COMMON CHARACTERISTIC OF SOCIALLY ORGANIZED EVIL IN MODERN SOCIETY."

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In Plaintiff's first amended complaint Plaintiff has used Stanley Milgram's model of socially organized evil to illuminate County Of Los Angeles policy of socially organized evil which occurred to Plaintiff through the County Of Los Angeles defendants depriving plaintiff of her civil rights under the color of state law by an abridged hearing which did not treat Plaintiff as she should be treated in a civil court proceeding – but instead Plaintiff became the defendant in criminal court proceeding, where not only was cross examination not allowed, but also there was no possibility of prevailing, just like Franz Kafka's novel *The Trial*.

The County Of Los Angeles defendants then combined the unfair hearing with no possibility of prevailing with police

brutality and unlawful detainment against the Plaintiff, in reckless disregard for her person, which added up to no due process of law and violated the 4th Amendment and 14th Amendment.

No single County Of Los Angeles defendant would have done what they did or would have since said what they said, if this was not County Of Los Angeles policy, and part of a socially organized scheme/code of silence to deprive plaintiff of her civil rights under the color of state law.

When Plaintiff quoted psychologist Stanley Milgram and adds her case to it - in herFirst Amended complaint page 43, line 18-21, by stating "The person who assumes responsibility [just as the Caucasian sheriff's deputies in Judge Laurence D Rubin's Santa Monica County Of Los Angeles courtroom have evaporated], perhaps that is the most common characteristic of socially organized evil in modern society" this is the logical equivalent of saying County Of Los Angeles defendants socially organized themselves in an arbitrary way and were deliberately indifferent to the rights of Plaintiff. The purpose was a favor to Santa Monica College and their police officer defendant Santa Monica College Police Officer Ron Marable, but in order to do this they deprived Plaintiff of her civil rights under the color of state law.

The words "SOCIALLY ORGANIZED" in Plaintiff's first amended complaint page 43 line 21, is the logical equivelent of saying THE COUNTY OF LOS ANGELES POLICY, as their policy is socially organized, and by Plaintiff quoting Milgram and using the words "SOCIALLY ORGANIZED" it would be impossible for to be interpreted to mean that Plaintiff was saying she was injured under §1983 under a respondeat superior theory

for injuries inflicted by County Of Los Angeles employees or agents.

Also Note: Plaintiff was warned in 1993 approx. that Sheriffs brutality took place in Judge Laurence D Rubin's Superior /Small Claims courtroom and how the sheriffs involved were never reprimanded, and because

Plaintiff was informed about this - and then forgot because years passed- and only remembered again - a few days after the police brutality happened to her - Plaintiff believes that the police brutality that was directed at her on October 6th, 1998-. is not a random event of police brutality in Judge Laurence D Rubin's courtroom, but is a County Of Los Angeles policy for certain cases, as she was told back in 1993 aprox that these Special Caucasian Sheriffs in Judge Laurence D Rubin's courtroom who caused police brutality were always shielded from accountability.

Plaintiff stated this in her original complaint dated March 15th, 1999 and her first amended complaint on Page 65, line 18- 28, and Page 66 line 1, Plaintiff states, I quote, " Three or four days after the October 6th 1998 hearing [beating], Plaintiff remembered that she had been told about seven years ago that Sheriff's beatings of people take place in Judge Laurence D Rubin's Small Claims courtroom in Superior Court, Santa Monica Courthouse on a regular basis. The conversation came up because Plaintiff was in Santa Monica Courthouse, and as she walked by Judge Laurence D Rubin's courtroom she wondered out loud whether Judge Laurence D Rubin was related to Judge Charles Rubin of Beverley Hills Court. Judge Charles Rubin [was the Judge for t he Zsar Zsar Gabor traffic policeman trial in Beverly Hills Court in 1989] and a few months after had given Plaintiff a

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judgment against County Of Los Angeles in Beverly Hills Court, Case No 96665 on October 31st, 1989, and Plaintiff wondered out loud if Judge Charles Rubin and Laurence Rubin were brothers. The person informed Plaintiff that Sheriffs deputies with records of excessive force who gave the beatings in Judge Laurence D Rubin's Courtroom were never reprimanded, and always hidden. There was a mention of a Sheriff named Chaney who had a long record of excessive force, who was famous for this."

Therefore as Plaintiff has stated that she had been informed about sheriff brutality in Judge Laurence D Rubin's courtroom seven years before it happened to her, Plaintiff is obviously stating that this police brutality is not a random event in that Courtroom, and is County Of Los Angeles policy for Judge Laurence D Rubin's courtroom in County Of Los Angeles Santa Monica Municipal courthouse.

In Monell vs Department of Social Services Of City Of New York 436 US 658 98 S Ct 2018, 56, L.Ed. 2d 611, 1978, 253, 258, 259, which sets out Municipal liability it states, "Instead, it is when execution of a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under §1983."

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And In Pembaur v Cincinnati 475 US 469 106 S Ct 1292, 89, L Ed 2d 452 (1986) , also sets out more elements of Municipal liability, the plaintiff alleged his fourth amendment rights were violated when police officers used an ax to chop down a door in his office building...The police took this action after conferring with the county prosecutor who said, "Go in and get them" Upon finding

this statement by the prosecutor sufficient to establish official policy, a plurality of the court said, "municipal liability under §1983 attaches where – and only where – a deliberate choice to follow a course of action is made from among various alternatives by the officials responsible for establishing final policy with respect to the subject matter in question.."

By defendant Judge Laurence D Rubin not allowing cross examination, and by his not asking if the California government claim requirement 910 et seq, had been fulfilled at the beginning of the hearing, and by his concealing the identities of the Caucasian Sheriff's deputies in his courtroom who he saw attack Plaintiff, defendant Laurence D Rubin deliberately chose to follow a course of action from among various alternatives, and as a judge he is an official responsible for establishing final policy with respect to the subject matter in question, and therefore as he has made the choice to conceal the Caucasian Sheriff's deputies who caused police brutality to the Plaintiff and has joined a conspiracy to say that his usual deputy sheriff bailiff Terry January is the person that Plaintiff was in a confrontation with, when this is not so, municipal liability under §1983 attaches.

And defendant Laurence D Rubin does not enjoy absolute immunity for his non judicial acts of allowing Caucasian Sheriffs into his courtroom and then after the Caucasian Sheriffs have brutalized Plaintiff, he does not enjoy absolute immunity for concealing their identities, and replacing their identities with Terry January in order that the Caucasian Sheriffs can show up again in his courtroom tomorrow to cause more police brutality and trauma to other innocent victims.

4.Plaintiff in her first amended complaint has quoted 42 USC § 1985 (3) on page 44, because County Of

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Los Angeles Court went on the premises of defendant Santa Monica college Police Officer Ron Marable and other defendants, for the purpose of depriving Plaintiff of the equal protection of the laws, and equal privileges and immunities of the laws and that there were overt acts in furtherance of this conspiracy whereby Plaintiff was injured in her person and and property, and on page 60 line 18 and 19 Plaintiff states, "Why did the Court, Judge Laurence D Rubin, allow Caucasian sheriffs in to the Courtroom, who beat up plaintiff, and who are now being hidden?"

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PLAINTIFF ANGELA BERNHARDT has stated a cause of action against the 1-10 CAUCASIAN SHERIFFS for civil rights violations under 42 USC Section 1983 and/or 1985 in that Plaintiff has plead facts demonstrating how they are part of the County Of Los Angeles Policy To Deprive Plaintiff Of Her Civil Rights. In Plaintiff's first amended complaint, page 59, line 25-27, "The police brutality was instigated by 1 Caucasian Sheriff Deputy who Plaintiff can recognize, kicking plaintiff to floor, and 1-2 others joining him and punching Plaintiff twenty time in soft tissue around he stomach and ribcage area and digging their fingernails into her hands even though Plaintiff had not attacked them..., Page 60, line 4, "The one Caucasian Sheriff deputy bailiff currently hidden by the County Of Los Angeles Sheriff's department intended to cause contact." And pages 60 through 66.

PLAINTIFF ANGELA BERNHARDT does state a cause of action for constitutional rights violation under 42 USC Section 1983 and 1985 against defendant Lee Baca because he does not enjoy immunity from liability under the Eleventh Amendment as he joined the conspiracy to

deprive plaintiff of her civil rights under the color of state law through condoning and ratifying the county Of Los Angeles Sheriffs' departments' suppression of evidence of the Caucasian Sheriff's deputies identities who caused police brutality to the Plaintiff, and by giving Plaintiff an arbitrary investigation and closing it as soon as he could to avoid disclosing the identities of the County Of Los Angeles Caucasian Sheriffs in Judge Laurence D Rubin's courtroom.

And a state officer or official is not afforded Eleventh Amendment immunity for Section 1983 claims; in Ex-parte Young (1908) made clear that state officials threatening the enforcement of unconstitutional statutes or threatening the implementations of unconstitutional action could be enjoined in Federal Court without running afoul of the Eleventh Amendment, and are liable for damages when sued in their personal capacity, Hafer V Melo, 502 US 21 112 S Ct 358, 116, L Ed 2d, 301, (1991) , also states, " We hold that state officials sued in their individual capacities are "persons" within the meaning of § 1983, The Eleventh Amendment does not bar such suit, nor are state officers absolutely immune from personal liability under § 1983 solely by virtue of the "official" nature of their acts. Congress has power under §5 of the fourteenth amendment to abrogate the states' immunity from claims for damages, "as a means of enforcing the substantive guarantees of the fourteenth amendment." Fitzpatrich v Bitzer 427 US 445, 96 S CT 2666, 49 L.ED 2d 614 1976,

5.PLAINTIFF ANGELA BERNHARDT has stated a cause of action for constitutional rights violations under 42 USC Section 1983 and 1985 against defendant COUNTY OF LOS ANGELES because the defendant

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COUNTY OF LOS ANGELES is liable for acts and omissions of a state officer or official who is not afforded Eleventh Amendment immunity for Section 1983 claims; in Ex-parte Young (1908), and state officials such as Laurence D Rubin, 1-10 Caucasian Sheriff's deputies, Terry January, Sherman Moten, Lee Baca are liable for damages when sued in their personal capacity, Hafer V Melo, 502 US 21 112 S Ct 358, 116, L Ed 2d, 301, (1991, Fitzpatrich v Bitzer 427 US 445, 96 S CT 2666, 49 L.ED 2d 614 1976, and Monell stated "when execution of a a government's policy or custom, whether made by its lawmakers or by those whose edicts or acts may fairly be said to represent official policy, inflicts the injury that the government as an entity is responsible under 1983.

6.PLAINTIFF ANGELA BERNHARDT stated a cause of action against defendants COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT and COUNTY OF LOS ANGELES SANTA MONICA COURT.

Plaintiff can maintain a cause of action in District Court as Plaintiff does have a viable claim for violation of her Constitutional rights, therefore neither her Constitutional claims for violations of civil rights, nor Plaintiff's common law causes of action should be dismissed.

INTRODUCTION

1) Plaintiff ANGELA BERNHARDT's First Amended Complaint dated 6th July, 1999. alleges federal causes of action under 42 USC Section 1983 and 1985, and Several State Causes Of Action Against The County Of Los Angeles, Judge Laurence D Rubin, 1- 10 Caucasian Sheriffs Of Judge Laurence D Rubin's Courtroom, Sheriff Sherman Moten, Sheriff Terry January, Sheriff Lee Baca,

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Judge Laurence D Rubin, County Of Los Angeles Sheriff's Department, County Of Los Angeles Santa Monica Municipal Court

2) Based on the allegations in the First Amended Complaint Plaintiff has not failed to allege the elements for municipal liability against defendants against County Of Los Angeles, Laurence D Rubin, 1-10 Caucasian Sheriffs of Judge Laurence D Rubin's Courtroom. Terry January, Sherman Moten, Lee Baca, County Of Los Angeles Santa Monica Municipal Court, County Of Los Angeles Sheriff's department, under 42 USC§ 1985 (2) (3). County Of Los Angeles defendants have conspired to deter by force intimidation or threat Plaintiff in Santa Monica Municipal court and in any other court of the United States, from attending such court, and from testifying from any matter pending therein, freely fully and truthfully, and have injured Plaintiff in her person on account of her having so attended and testified, and influenced and the verdict, presentment in Santa Monica Municipal Court County Of Los Angeles, ...oı if two or more persons conspire for the purpose of

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impeding hindering obstructing or defeating, IN ANY MANNER, THE DUE COURSE OF JUSTICE, in any state or territory, with intent to deny any citizen the equal protection of the law, or to injure her or her property for lawfully enforcing or attempting to enforce the right of any person, or class of person, to the equal protection of the laws, the party so injured or deprived may have an action for the recovery of damages, occasioned by such injury or deprivation, against any one or more of the conspirators.

3) Plaintiff has stated a claim in CV—99-2598-JSL against the County Of Los Angeles defendants for

constitutional and municipal civil rights violations under 42 USC, section 1983, 1985 (2) (3) and common law torts committed against plaintiff , for depriving Plaintiff of her Federally protected rights privileges and immunities as the hearing was set up to abridge Plaintiffs rights privileges and immunities with no due process of law on October 6th, 1998.

A) CROSS EXAMINATION WAS BANNED BY JUDGE LAURENCE D RUBIN AT THE BEGINNING OF THE HEARING - AND CROSS EXAMINATION IS GUARANTEED AS PART OF A COURT HEARING BY THE 6TH AMENDMENT OF THE CONSTITUTION, AND IS A FUNDAMENTAL GUARANTEE OF LIFE AND LIBERTY PROTECTED BY THE 14TH AMENDMENT THROUGH DUE PROCESS OF LAW.

Confrontation – 6th Amendment

"The primary object of the constitutional provision in question was to prevent depositions of ex parte affidavits . being used against the prisoner in lieu of a personal examination AND CROSS EXAMINATION OF THE WITNESS in which THE ACCUSED has an opportunity NOT ONLY OF TESTING THE RECOLLECTION AND SIFTING THE CONSCIENCE OF THE WITNESS, BUT OF COMPELLING HIM TO stand face to face with the jury in order that they may look at him, and judge by his demeanor upon the stand and the manner in which he gives his testimony whether he is worthy of belief"145 THE RIGHT OF CONFRONTATION [CROSS-EXAMINATION] IS "[O]NE OF THE FUNDAMENTAL GUARANTEES OF LIFE AND LIBERTY . . . LONG DEEMED SO ESSENTIAL FOR THE DUE PROTECTION OF LIFE AND LIBERTY THAT IT IS

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GUARDED AGAINST LEGISLATIVE AND JUDICIAL ACTION BY PROVISIONS IN THE CONSTITUTION OF THE

UNITED STATES AND IN THE CONSTITUTIONS OF MOST IF NOT ALL OF ALL THE STATES COMPOSING THE UNION

B)The County Of Los Angeles defendants and Santa Monica college defendant CONCEALED THE CALIFORNIA GOVERNMENT CODE REQUIREMENT FROM PLAINTIFF, AND THEREFORE SHE HAD NOT COMPLIED WITH IT, and so THE CALIFORNIA GOVERNMENT CLAIM requirement although not discriminatory on its face WAS USED IN A PURPOSEFULLY DISCRIMINATORY MANNER TO DENY PLAINTIFF ANY POSSIBILTIY OF PREVAILING, because THAT REQUIREMENT WAS CONCEALED prior to, and during the hearing and the hearing was allowed to continue - when Plaintiff has no possibility of prevailing - and a state remedy for this does not exist, as Judge Laurence D Rubin did not state on the judgment, judgment denied because California Government requirement not fulfilled by Plaintiff who was too late to fulful it, and anyway Plaintiff was not too late to fulfil it.

C) And then Plaintiff was battered by CAUCASIAN SHERIFF'S DEPUTY BAILIFFS after defendant Santa Monica College Police Officer Ron Marable had perjured himself in Judge Laurence D Rubin's court. There was one Caucasian Sheriff Deputy stationed in the courtroom throughout the hearing, who kicked her to the floor, and other Caucasian Sheriffs joined him, while she was already restrained, and dug their fingernails into plaintiff's left hand, punched her for two minutes, ripped

her glasses off her face, and handcuffed plaintiff, and unlawfully detained Plaintiff. **4)** Three Caucasian Sheriffs in Judge Laurence D Rubin's courtroom, without a warrant and without probable cause, falsely arrested plaintiff in violation of plaintiff's Fourth Amendment right to be secure in her person from unreasonable seizure and her FOURTEENTH AMENDMENT RIGHT NOT TO BE DEPRIVED OF HER LIBERTY WITHOUT DUE PROCESS OF LAW. **5)**The County Of Los Angeles defendants conspired to deter by force and by intimidation Plaintiff in her person on account of her so having attended because she testified against a Santa Monica College Police Officer, Santa Monica College, Santa Monica Community College District, who caused her emotional injury DUE TO OBSTRUCTION OF JUSTICE, and the obstruction of justice continued because of the abridged hearing in that courtroom! **6)** The County of Los angeles defendants intended to influence the verdict, and intended to injure

plaintiff in her person and property on account of her so attending and so testifying, and also conspired for the purpose of impeding hindering obstructing and defeating the due course of justice in the State of California with intent to deny plaintiff equal protection of the laws, and to injure her person and her property as the CAUCASIAN SHERIFFS IN THAT COURTROOM ARE NOW BEING HIDDEN IN ORDER TO HIDE THIS CRIME.

7) SUPPRESSION OF EVIDENCE Currently the County of Los Angeles defendants including Judge Laurence D Rubin, are suppressing evidence regarding the identities of the County of Los Angeles Caucasian sheriffs who caused police brutality to plaintiff in judge Laurence d Rubin's courtroom on October 6th, 1998. And

defendant Laurence d Rubin does not enjoy absolute judicial immunity for acts or omissions that are not judicial acts, and is accountable and liable under 42 USC 1983 & 42 USC 1985 (2)& (3) for his non judicial acts. And Judge Laurence D Rubin has no jurisdiction as a Judge to conceal the identities of the 1-3 Caucasian Sheriffs who were in his courtroom,, therefore as Judge Laurence D Rubin has since the hearing on October 6th, 1998 decided to conceal the identities of Caucasian Sheriffs who caused physical injury to Plaintiff and traumatized her, and as he knows who they are, Judge Laurence D Rubin came to this decision from amongst all the other decisions that he could have made, and his concealment of their identities, and his cover up of their police brutality against the plaintiff, ratifies their police brutality, ratifies his policy and ratifies the County Of Los Angeles policy to have these Caucasian Sheriffs in his courtroom to cause police brutality on this occasion after an abridged proceeding without due process of law, and Judge Laurence D Rubin's act in concealing Caucasian Sheriffs in his courtroom and replacing them with Sheriff Terry January who is most certainly the wrong sheriff if he is African American, is also not a judicial act, and therefore Judge Laurence D Rubin does not enjoy absolute immunity. In Forrester v. White, 484 U.S. 219 (1988); A state-court judge did not have absolute immunity from a damages suit under 1983 for his decisions to demote and dismiss a court employee. Pp. 223-230. and therefore Defendant Laurence D Rubin does not have absolute immunity from a damages suit under 42 USC §1983 for his decisions to allow Caucasian Sheriffs into his courtroom, who caused police brutality to Plaintiff in his courtroom, and who Judge Laurence D Rubin is now hiding through his silence, and therefore he is ratifying their police brutality against the Plaintiff.

And it is the nature of the function performed - adjudication - rather than the identity [Forrester

v White 484 U.S. 219, 2 (1988)] of the actor who performed it - a judge - that determines whether absolute immunity attaches to the act. Pp. 225-229. Administrative decisions, even though they may be essential to the very functioning of the courts, have not similarly been regarded as judicial acts.

In Ex parte Virginia, 100 U.S. 339 (1880), for example, this Court declined to extend immunity to a county judge who had been charged in a criminal indictment with discriminating on the basis of race in selecting trial jurors for the county's courts. The Court reasoned: "Whether the act done by him was judicial or not is to be determined by its character, and not by the character of the agent.

Whether he was a county judge or not is of no importance

In a Motion To Dismiss all the facts stated in Plaintiff's complaints are deemed true, yet County Of Los Angeles failed to mention in their papers the Caucasian Sheriff's Deputies In Judge Laurence D Rubin's Courtroom Who Caused Police Brutality To The Plaintiff which is mentioned in both Plaintiff's original and first amended complaint. In Hishon v King & Spalding, 467, US 69,73, 104 SCt. 2229, 81 L.Ed 2d. 2d 59 (1984) it also states, "At this stage of the litigation we must accept petitioner's allegations as true. A court may dismiss a complaint only if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations. Conley v. Gibson, 355 U.S.41, 45-46 91957)

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Therefore for this Court to dismiss the case against County Of Los Angeles defendants now the Court would have to agree that relief could not be granted under any set of facts that could be proved consistent with Plaintiff's allegations, and Plaintiff has said that it was Caucasian Sheriffs who caused police brutality to Plaintiff, who are now being hidden by defendant Judge Laurence D Rubin, and defendant Santa Monica College Police Officer Ron Marable and all County Of Los Angeles defendants. That Santa Monica College Police Officer Ron Marable gave perjured testimony to the Court Judge Laurence D Rubin on 6th October, 1998 against the Plaintiff. Judge Laurence D Rubin, defendant Santa Monica College Police Officer Ron Marable and Sheriff Terry January are not telling the truth when they say African American Sheriff Terry January was confrontation with Plaintiff Angela Bernhardt on October 6th 1998, to prevent Plaintiff from reaching Judge Laurence D Rubin.

The Court would also have to accept that Plaintiff at the hearing of October 6th 1998 had no possibility to prevail because of the California government claim requirement had not been disclosed to her by either the County Of Los Angeles Court or the defendant Ron Marable, and would also have to

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accept that Judge Laurence D Rubin at the beginning of the hearing made it known that there was to be no cross examination allowed even though that is a violation of the 6th Amendment, and 14th Amendment for due process of law.

If the Court accepts all these facts as true then Plaintiff believes that these alleged facts show that Plaintiff was deprived of her fundamental right to a fair and

unabridged hearing with cross examination allowed so that she could prove her case, she was barred from cross-examination and therefore was unable to make her case, and was thus not given the due process of law that is guaranteed to her under the 14th Amendment, Plaintiff's rights were violated under the 4th and 14th Amendment by the Caucasian Sheriffs deputies who caused her police brutality, and that defendants acted jointly and in concert and overt acts were done in furtherance of a conspiracy to deprive Plaintiff of her Federally protected civil rights; and that the purpose of the conspiracy was to deprive her of equal protection, equal privileges and immunities and to obstruct the course of justice, that the defendants intended to discriminate against the plaintiff, that the defendants acted under the color of state law and authority, and that acts done in furtherance of the conspiracy resulted in injury to plaintiff's person and property and prevented her from exercising right or privilege of United States citizen.

THEREFORE PLAINTIFF BELIEVES THAT DISCOVERY IS MANDATORY TO IDENTIFY THE CAUCASIAN SHERIFFS DEPUTIES WHO WERE PRESENT IN LAURENCE D RUBIN'S COURTROOM ON 6TH OCT. 1998 BECAUSE IT IS A SUBSTANTIAL PROOF OF A FACT –THAT IS NECESSARY AND MATERIAL TO THIS PROCEEDING.

Plaintiff ANGELA BERNHARDT served discovery on County Of Los Angeles defendants, see attached exhibit YY. If this discovery is answered and does NOT REVEAL the identities of the Caucasian Sheriffs then Plaintiff Angela Bernhardt must depose Laurence D Rubin who is knowledgeable of the identities of the Caucasian Sheriffs who were in his courtroom on 6th October, 1998. And if Laurence D Rubin does not wish to disclose the Caucasian Sheriffs identities in his

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Courtroom in that deposition, then Plaintiff needs A COURT ORDER TO IDENTIFY THE CAUCASIAN SHERIFS BY LOOKING AT PHOTOGRAPHS OF CAUCASIAN SHERIFFS AT COUNTY OF LOS ANGELES SHERIFF'S DEPARTMENT AS SHE CAN RECOGNIZE WHO KICKED HER TO THE GROUND AS HE HAS A VERY DISTINCT FACE.

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REGARDING 42 USC § 1983 AND ABSOLUTE IMMUNTITY FOR JUDICIAL ACTS

"The 42 USC §1983 statute, which came on the books as 1 of the Ku Klux Klan Act of April 20, 1871, 17 Stat. 13, provides that " EVERY PERSON" who under color of state law or custom " subjects, or causes to be subjected, any citizen to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress. "

TO MOST, "EVERY PERSON" WOULD MEAN EVERY PERSON, NOT EVERY PERSON EXCEPT JUDGES." Pierson v Ray, 386 U.S. 547. 559

Regarding 42 USC § 1983 - in Pierson v Ray, 386 U.S. 547. 559 it states, "The congressional purpose seems to me to be clear. A condition of lawlessness existed in certain of the States, under which people were being denied their civil rights. CONGRESS INTENDED TO PROVIDE A REMEDY FOR THE WRONGS BEING PERPETRATED. AND ITS MEMBERS WERE NOT UNAWARE THAT CERTAIN MEMBERS OF THE JUDICIARY WERE IMPLICATED IN THE STATE OF AFFAIRS WHICH THE STATUTE WAS INTENDED TO RECTIFY. IT WAS OFTEN NOTED THAT " [I]MMUNITY IS GIVEN TO CRIME, and the records of

the public tribunals are searched in vain for any evidence of effective redress." Cong. Globe, 42d Cong., 1st Sess., 374.

Mr. Rainey of South Carolina noted that " [T]HE COURTS ARE IN MANY INSTANCES UNDER THE CONTROL OF THOSE WHO ARE WHOLLY INIMICAL TO THE IMPARTIAL ADMINISTRATION OF LAW AND EQUITY." Id., at 394. [386 U.S. 547, 560] Congressman Beatty of Ohio claimed that it was the duty of Congress to listen to the appeals of those who " by reason of popular sentiment or secret organizations or prejudiced juries or bribed judges, [CANNOT]OBTAIN THE RIGHTS AND PRIVILEGES DUE AN AMERICAN CITIZEN . . . ." Id., at 429. The members supporting the proposed measure were apprehensive that there had been a complete breakdown in the administration of justice in certain States and that laws nondiscriminatory on their face [I.E. CALIFORNIA GOVERNMENT CODE 910 ET SEQ] were being applied in a discriminatory manner, {TO DENY PLAINTIFF ANY CHANCE OF PREVAILING AND TO CIRCUMVENT DUE PROCESS OF LAW] that the newly won civil rights of the Negro were being ignored, and that the Constitution was being defied. It was against this background that the section [42 USC § 1983], was passed and it is against

this background that it should be interpreted. THE SECTION'S PURPOSE WAS TO PROVIDE REDRESS FOR THE DEPRIVATION OF CIVIL RIGHTS. IT WAS RECOGNIZED THAT CERTAIN MEMBERS OF THE JUDICIARY WERE INSTRUMENTS OF OPPRESSION AND WERE PARTIALLY RESPONSIBLE FOR THE WRONGS TO BE REMEDIED.

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The parade of cases coming to this Court shows that a similar condition now obtains in some of the States. SOME STATE COURTS HAVE BEEN INSTRUMENTS OF SUPPRESSION OF CIVIL RIGHTS. THE METHODS MAY HAVE CHANGED; THE MEANS MAY HAVE BECOME MORE SUBTLE; BUT THE WRONG TO BE REMEDIED STILL EXISTS

For 42 USC § 1985 The essential element of conspiracy claim is existence of agreement between 2 or more persons to commit an illegal act. Plaintiff believes that their was a conspiracy to deprive Plaintiff of a fair hearing, on October 6th, 1998 and that that hearing was set up beforehand for no due process and for police brutality. Under 42 USC § 1985 plaintiff need not show that such agreement to deprive Plaintiff of Civil rights and equal protections of the laws, through an unfair hearing with no due process of law was express, but a conspiracy may be implied from circumstances.

THE SHOWING OF A CONSPIRACY MUST OFTEN BE MET BY CIRCUMSTANTIAL EVIDENCE INASMUCH AS CONSPIRATORS RARELY FORMULATE THEIR PLANS IN WAYS SUSCEPTIBLE TO BE PROVED BY DIRECT EVIDENCE; PLEADING REQUIREMENTS UNDER § 1985 REQUIRE AT LEAST MINIMUM FACTUAL SUPPORT OF EXISTENCE OF CONSPIRACY. Hunt v Weatherbee (1986 DC Mass) 626 F Supp 1097, 39 BNA FEP Cas 1469 121 lrrm 2408, 39 cch epd 35927. Allegations that "defendants and other named conspirators "deprived plaintiff of [due process of law and abridged her privileges and immunities], and equal protection of the law was sufficient to survive motion to dismiss complaint where Plaintiff named one defendant. 42 USC § 1985 (3) provided that action could be brought against 'any one or more" of conspirators and where COURT CONCLUDED THAT PLAINTIFF WAS

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ENTITILED TO DISCOVERY TO ASCERTAIN IDENTITY OF ALLEGED BUT UNNAMED ([CAUCASIAN SHERIFFS] CONSPIRATORS. Milner v National School of Health Technology (1976, ED Pa) F Supp 1389, 12, BNA FEP Case 1696 11, CCH EPD 10787

Plaintiff can show through specific facts that the defendants reached an understanding or

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agreement to violate plaintiff's federally created rights, by depriving her of a fair hearing with due process of law in County Of Los Angeles Santa Monica Courthouse, by placing Caucasian Sheriffs in that courtroom who brutalized the Plaintiff who the County Of Los Angeles, Laurence D Rubin, Terry January- Sherman Moten, Lee Baca, and Santa Monica College Police officer Ron Marable are now hiding!

PLAINTIFF THROUGH DISCOVERY WITH THE COURT'S ORDER WILL BE ABLE TO IDENTIFY THE CAUCASIAN SHERIFF WHO STARTED THE POLICE BRUTALITY ATTACK AGAINST HER, WHERE TWO OTHER CAUCASIAN SHERIFFS JOINED IN TO PUNCH HER ON THE FLOOR FOR TWO MINUTES WHILE SHE WAS ALREADY RESTRAINED. (2) Defendant Laurence D Rubin does not enjoy absolute judicial immunity for acts or omissions that do not fall into the category of judicial acts, and can be held liable under 42 USC 1983 & 42 USC 1985 (2)& (3) if any of his individual acts or omissions are not judicial acts.

In Forrester v. White, 484 U.S. 219 (1988); A state-court judge did not have absolute immunity from a damages suit under 1983 for his decisions to demote and dismiss a court employee. Pp. 223-230. and therefore Defendant Laurence D Rubin does not have absolute immunity from a damages suit under 42 USC §1983 for

his decisions to allow Caucasian Sheriffs into his courtroom, who caused police brutality to Plaintiff in his courtroom, and who Judge Laurence D Rubin is now hiding through his silence.. And It is the nature of the function performed - adjudication - rather than the identity [Forrester v White 484 U.S. 219, 2 (1988)] of the actor who performed it - a judge - that determines whether absolute immunity attaches to the act. Pp. 225-229.

Administrative decisions, even though they may be essential to the very functioning of the courts, have not similarly been regarded as judicial acts. In Ex parte Virginia, 100 U.S. 339 (1880), for example, this Court declined to extend immunity to a county judge who had been charged in a criminal indictment with discriminating on the basis of race in selecting trial jurors for the county's courts. The Court reasoned: "Whether the act done by him was judicial or not is to be determined by its character, and not by the character of the agent.

Whether he was a county judge or not is of no importance

Laurence D Rubin knows the identities of the 1-3 Caucasian Sheriffs in his courtroom on October

6th, 1998, who caused physical injury to the plaintiff, and Laurence D Rubin was there when the first Caucasian Sheriff -who was present throughout the hearing -walked across the courtroom and went into an attack mode by his facial expression and body placement before he kicked plaintiff to the ground.

Therefore the non judicial act or omission by Laurence D Rubin is that he is concealing the identities of the 1-3 Caucasian Sheriffs who were in his courtroom and who caused police brutality to the Plaintiff, and who

kicked her to the ground, and then punched her softly around her rib cage while she was on the ground for two minutes, and stuck their fingernails into her right hand. The second non judicial act or omission by Laurence D Rubin is that IF IT IS TRUE that Terry January is African American (which Sheriff Sherman Moten and Sheriff Leroy Baca have told Plaintiff), and IF IT IS TRUE Terry January is the regular sheriff deputy bailiff who is stationed in Judge Laurence D Rubin's courtroom which is what Sheriff Sherman Moten told plaintiff on December 7th, 1998,and Sheriff Lee Baca through Exhibit P dated 5th Feb.1999 THEN Laurence D Rubin's act and ommision to concur that his usual Sheriff Baliff Terry January was in a confrontation with Plaintiff Angela Bernhardt when Terry January was not in any confrontation with plaintiff - is not only a suppression of evidence in concealing the identities of the Caucasian Sheriffs who caused police brutality on Plaintiff in his courtroom, but is also by his agreement contributing to this lie, and ratifying the entire policy of these secret Caucasian Sheriffs who have a propensity for violence who are allowed in his courtroom.

County Of Los Angeles Sheriff's department's original story was that African American Sheriff Terry January and African American defendant Santa Monica College police officer Ron Marable were in a confrontation with Plaintiff Angela Bernhardt, to stop Plaintiff Angela Bernhardt from reaching Judge Laurence D Rubin which is written on Exhibit P of the First Amended Complaint. Judge Laurence D Rubin knows this is an untrue story as he would not have said he was sorry on October 6th, 1998, through the African American Sheriff who released plaintiff from the holding cell, also written in First Amended Complaint page 63, line 20 and 21, if he had ever felt threatened by Plaintiff that day. Also now there

is a different story from the Sheriff's department see Exhibit PP filed with this Court 24th September, 1999. Laurence D Rubin is ratifying the abridged hearing he offered Plaintiff, and has become part of THE CODE OF SILENCE. And Judge Laurence D Rubin has no jurisdiction as a Judge to conceal the identities of the 1-3 Caucasian Sheriffs And Laurence D Rubin's concealment of the

Caucasian Sheriffs deputies who were in his courtroom and by his ratifying the switch of identities to African American sheriff Terry January – these non judicial acts - when fused with Laurence D Rubin's other judicial acts on October 6th, 1998, contaminates his other judicial acts – but some were contaminated as soon as he said no cross –examination allowed at the beginning of the hearing. Plaintiff does not believe that ordering absolutely no cross -examination allowed in a hearing is a true judicial act because it closes down the adversary system and is guaranteed under the 6th Amendment, and 14th Amendment for due process of law. Thus the fusion of the non judicial act of concealing the identities of the Caucasian Sheriff's deputies some who were present for the entire hearing, who caused police brutality to Plaintiff, of whose identities Laurence D Rubin does know, and Judge Laurence D Rubin's silent acceptance that Terry January was in a confrontation with Plaintiff when he was there so he knows that is not so, and the false judicial act of no cross examination allowed, no witness evidence allowed, virtually no evidence allowed, contaminated and made the WHOLE PROCESS a non judicial act, under the color of law, and therefore Plaintiff believes that Laurence D Rubin is not entitled to absolute judicial immunity in this case.

APPENDIX F
OPPOSITION TO COUNTY OF LOS ANGELES MOTION TO DISMISS

CONCLUSION For the foregoing reasons, Plaintiff respectfully requests that this Court does not dismiss plaintiff's action.

Respectfully submitted

Angela Bernhardt 4th October 1999.

[NOTE: Location Of Plaintiff Angela Bernhardt's Opposition To County Of Los Angeles Motion To dismiss in the District Court record -is at Docket 52 within the same blue back as Plaintiff's Early Opposition to Santa Monica College et al defendants Motion to Dismiss Plaintiff's Complaint under FRCP 12 (b)

(Plaintiff Angela Bernhardt's Oppostion To County Of Los Angeles Motion To Dismiss is also Located at 9th Circuit Excerpt From Record -Volume 3 - page 113 through 129)

APPENDIX F

FILED 4TH OCT 1999 –PLAINTIFF ANGELA BERNHARDT'S OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS FRCP.12 (b) A MORE THOROUGH VERSION SHORTLY

THE UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA
Case NO CV -99–2598 - JSL

DATE: OCTOBER 4TH 1999 TIME: 1 P.M.
PLACE: COURTROOM #4 HON J SPENCER LETTS

Angela Bernhardt Plaintiff vs)
SANTA MONICA COLLEGE , a public entity, **SANTA MONICA**)
COLLEGE COMMUNITY DISTRICT, a public entity. **SANTA**)
MONICA COLLEGE BOARD OF TRUSTEES, a public entity.)
SANTA MONICA COLLEGE POLICE DEPT., a public entity.)
R.L.JONES, in his individual and official capacity. **RON**)
MARABLE in his individual and official capacity.)
EILEEN MILLER, in her individual and official capacity.)
PIEDAD ROBERTSON, in her individual and official capacity.)
ROBERT SAMMIS, in his individual and official capacity.)
JOANNE FIELDER in her individual and official)
capacity. **BRENDA SIMMONS**, in her individual and)
official capacity. **HERB RONEY**, in his individual and official)
capacity. **DOROTHY EHRHART MORRISON**, in her individual)
and official capacity. **NANCY CATTELL**, in her individual and)
official capacity. **CAROL L CURRY**, in her individual and)
official capacity. **ILLONA JO KATZ**, in her individual and)
official capacity. **PATRICK NICHELSON**, in his individual and)
official capacity **ANNETTE SHAMEY**, in her individual and)
official capacity, **STATE OF CALIFORNIA**, a public entity.)
COUNTY OF LOS ANGELES, a public entity.**COUNTY OF**)
LOS ANGELES SHERIFFS DEPT.,a public entity, **COUNTY**)
OF LOS ANGELES SANTA MONICA MUNICIPAL COURT,)
a public entity. **LAURENCE D. RUBIN**, in his individual &)
official capacity. **1-10 CAUCASIAN MALE SHERIFF DEPUTY**)
DOES, OF JUDGE LAURENCE D. RUBIN'S COURT ROOM R)
& COUNTY OF LOS ANGELES SHERIFF'S DEPT in their)
individual & official capacities, **LA COUNTY SHERIFF LEE**)
BACA in his individual & official capacity. **SHERIFF**)
SHERMAN MOTEN, SHERIFF)
TERRY JANUARY, in their individual & official capacities.)
OFFUNE OBIANEWE in her individual capacity,)
SHERIFF DEPUTY DOES 1—50 in individual and official)
capacity,and **DOES 1** through **100.**)
Defendants

APPENDIX F

OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS

COMES NOW **ANGELA BERNHARDT** and submits the enclosed opposition to defendants motion to dismiss Plaintiff's complaint under Federal Rule 12 (b).

This opposition to defendants **SANTA MONICA COLLEGE ET AL'S MOTION TO DISMISS** is made on the following grounds:

The most important misrepresentation and distortion of plaintiff's complaint by defendants Santa Monica College et al, occurs on page 4 line 21 of their motion to dismiss where Defendants attorney Mary L Dowell **distorts plaintiffs first amended complaint by stating,**

"She [Plaintiff Angela Bernhardt] was advised that the incident was probably too old to investigate **ADEQUATELY,**

AND LINE 22-23 PAGE 4, OF THE MOTION TO DISMISS

BUT THE OFFICER SHE SPOKE TO [SANTA MONICA COLLEGE POLICE OFFICER RON MARABLE] DID INTERVIEW HER AND DID INTERVIEW THE ACCUSED INSTRUCTOR

PLAINTIFF HAS NEVER STATED EITHER "ADEQUATELY" OR THAT MARABLE INTERVIEWED THE ACCUSED INSTRUCTOR-ANYWHERE, AND THIS IS A FABRICATION ON THE DEFENDANTS PART TO CONFUSE THAT FRAUD DID TAKE PLACE BECAUSE OF DEFENDANT SANTA MONICA POLICE OFFICER RON MARABLE 'S ACTS AND OMISSIONS.

APPENDIX F

OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS

1. Plaintiff has never stated this anywhere - **see First Amended Complaint, page 20, line 16- 19,** where Plaintiff states,

"But Police Officer Marable refused to take a written report and told Plaintiff that defendant Jones's sexual assault on her was too old to report, which wasn't true as Plaintiff was reporting the sexual assault to defendant Marable within the three year statute of limitations for fraud and mistake under California civil code of procedure 338 (4)."

PAGE 3

The offending words ar "PROBABLY" AND "ADEQUATELY" distort Plaintiff's complaint against Ron Marable and Santa Monica college for the purpose of disguising the FRAUD that took place because Ron Marable told plaintiff that her restrained sexual assault complaint against defendant Instructor Larry Jones was too old to report

WHICH IS THE EQUIVALENT OF SAYING THAT THE STATUTE OF LIMITATIONS HAD RUN OUT TO REPORT THE RESTRAINED SEXUAL ASSAULT IN NOVEMBER 1996 and which the statute of limitations had not run out to report the restrained sexual assault in November 1996 because of California Code Of Civil Procedure CCP 338 (4) which is a three year statute to report an incident on the basis of mistake or fraud.

In Stitt vs Williams 919 F 2d 516 9th Circuit 1990, I quote, ".The district court's rulings ...properly applied California's three year statute of limitations for fraud actions. See Admiralty

Fund v. Hugh Johnson & Co., 677 F.2d 1301, 1308-09 (9th Cir. 1982); Cal.Civ.Proc.Code 338 (West Supp. 1990). Second, the court correctly applied federal law to determine when the statute started to run. Under federal law, the statutory period "commences when the plaintiff discovered or could have discovered the fraud with the exercise of reasonable diligence . . . ." Admiralty Fund, 677 F.2d at 1309. See also Volk v. D.A. Davidson & Co., 816 F.2d 1406, 1417 (9th Cir. 1987). We have held that the question of notice of fraud is for the trier of fact. Admiralty Fund, 677 F.2d at 1309. Therefore, "the party seeking summary disposition has an extremely difficult burden to show that there exists no issue of material fact regarding notice." Id. at 1309-10. **"And as far as equitable tolling and equitable estoppel again in Stitt vs Williams**

"The case law is confused and contradictory, BUT THE BETTER REASONING STATES THAT EQUITABLE TOLLING APPLIES WHEN THE PLAINTIFF IS UNAWARE OF HIS CAUSE OF ACTION, WHILE EQUITABLE ESTOPPEL APPLIES WHEN A PLAINTIFF WHO KNOWS OF HIS CAUSE OF ACTION REASONABLY RELIES ON THE DEFENDANT'S STATEMENTS OR CONDUCT IN FAILING TO BRING SUIT. See Smith v. Mark Twain Nat'l Bank, 805 F.2d 278, 294 (8th Cir. 1986); Cerbone v. International Ladies' Garment Workers' Union, 768 F.2d 45, 49-50 (2d Cir. 1985); Atkins v. Union Pac. RR, 685 F.2d

PAGE 4

[CITATIONS OMITTED]

APPENDIX F

OPPOSITION TO SANTA MONICA COLLEGE DEFENDANTS MOTION TO DISMISS

2. Plaintiff had plead facts under a cognizable legal theory, Plaintiff was deprived of her civil rights privileges and immunities on several different occasions at Santa Monica College without due process of law and was discriminated against because she reported an Instructor's sexual assault to their police officer which they covered up and ratified by their acts. .

3. It is not true that Plaintiff's claims for relief are barred by the applicable statute of limitations, as the statute of limitations for fraud and mistake is three years and the defendants cannot raise the statute of limitations as a defense because of equitable estoppel and equitable tolling and because of their FRAUD in covering up that Plaintiff reported the sexual assault to marable n Nov 1996.

All Claims for relief are not barred by the applicable statute of limitations. The statute of limitations for fraud, California Code Of Civil Procedure CCP 338 (4) is three years. The discovery of Santa Monica College's et als fraud was 17th March 1998, Please see Exhibit G of the exhibits for First amended complaint, and Plaintiff filed her claim in this Court 15th March, 1999, - within one year of discovery of the fraud.

CONCLUSION For the foregoing reasons, Plaintiff respectfully requests that this Court does not dismiss plaintiff's action.
Respectfully submitted with a much fuller version to follow shortly!

Angela Bernhardt 4th Oct 1999 - {Location Of Opposition To Santa Monica College Motion To Dismiss District Court Docket 52] 9th USCA Volume 3 pages 130-133]

APPENDIX F

DATED 27TH DEC 2000 EXCERPT FROM COUNTY OF LOS ANGELES ET AL'S BRIEF FOR USCA 00-55596 & 55930

Page 1 FOOTNOTE 1 [1] Appellant apparently attempted to pass the bailiff to approach Judge Laurence D Rubin as he left the bench. When she lunged at the Judge, the bailiff restrained her.

Page 1, 2 FOOTNOTE 2 [2] Defendants Sheriff Sherman Moten and Sheriff Terry January were never personally served and therefore never appeared in the action. As the District Court properly noted in its Order Of Oct 8th 1999, they were not moving parties in the County defendant's motion to dismiss filed on August 25th 1999 Appellant's contention that they were moving parties is thus without merit

[Note: Please take judicial notice of County of Los Angeles Proposed Order For their Motion To Dismiss in App F page 130, 131 where Sheriff Terry January and Sherman Moten are included in County Of Los Angeles Proposed Order For Their Motion to Dismiss which created ambiguity to a pro per litigant for purposes of concealing a defect in the service of the summons and complaint and where in May 1999 petitioner was informed by Mr. Geller at the status conference that all County Of Los Angeles respondents had accepted service by US mail.]

Page 20 FOOTNOTE 5 [5] The Motion [To Dismiss] was filed on August 25th 1999, and set for Oct 24th 1999, the first available court date. Appellant had nearly four weeks to prepare her response, two full weeks more than required by the Local Rules. [Note: Local Rule 7.6 For District Court Central District Of California are in App Cr page 75]

APPENDIX F

Dated: August 8th 2000 **Excerpt From Related Case:**

County Of Los Angeles Brief For United States Court Of Appeals For 9th Circuit USCA

Case 00-55524 USDC -Case CV-99-10121 – JSL (Mc)

Page 3 Footnote 4.[4] Appellant's case in the matter of Bernhardt v. Santa Monica College et al Case No. CV –99-2898-JSL ~~(RNBx)~~ was dismissed on October 8th 1999 (ER 17, pp 8-9) **The Complaint alleged that Appellant's civil rights had been violated in an incident at the Santa Monica Municipal Court, Small Claims Division wherein Appellant had to be restrained by a courtroom bailiff after she lunged at Judge Laurence D Rubin.**

Note: Decision still pending in 9th Circuit USCA as of January 15th 2002.

DATED 27TH DEC 2000EXCERPT FROM COUNTY OF LOS ANGELES ET AL'S BRIEF FOR USCA 00-55596 & 55930

Page 20 FOOTNOTE 6 [6] The "Early Opposition " does not address the County's Motion to Dismiss, but rather opposes the Santa Monica College Defendant's Motion. **The County's Motion To Dismiss was never opposed.**

[Note: Please take judicial notice of Petitioner's Opposition To County Of Los Angeles Motion To Dismiss which is in the record, for which petitioner has an original date stamp from the district court of Oct 4th 1999 for, and which is in the same blue back as the Early Opposition to Santa Monica college et als Motion To Dismiss and is reproduced in this Appendix F From 144 –169]

(3)

No. 01-1254

Supreme Court, U.S.
FILED
APR 1 2002

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, & COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

SUPPLEMENTARY BRIEF

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

12pp

QUESTION PRESENTED

Revised Question 9)

Does a District Court generated vexatious litigant order with a 500$ per filing fee under USDC Central District Of California Local Rule 27 (a) violate equal protection of the laws and due process clause of the Fourteenth Amendment and infringe on a pro per litigant's right of access into the district court now, see *Bounds v. Smith*, 430 U.S. 817, 52 L. Ed. 2d 72, 97 S. Ct. 1491 (1977), *Wolff v. McDonnell*, 418 U.S., at 579, when the district court did not inform the pro per litigant in Plain English of the specific conduct appearing to violate subdivision FRCP 11 (b) pursuant to FRCP 11 c (1) (B) prior to entering the vexatious litigant order and cancelling the hearing -

In circumstances where two Civil Rights lawsuits were filed in half a century, and if part of the district court's justification for the vexatious litigant order (affirmed by 9th Circuit in an unpublished opinion on June 25th 2001), were overuled in *Bernhardt v County Of Los Angeles* et al 279 F.3d 862 (9th Circuit 4th Feb 2002) as the related case itself, and the earlier motion to supplement it to this case were part of the district court's justifications for the vexatious litigant order (Appendix B App 5) , and if the vexatious litigant order is not narrowly tailored because it doesn't fit the district court's specific vices encountered See the criteria of. *De Long v Hennessey* 912 F. 2d 1144, 1146-48 (9th Circuit 1990))

QUESTION PRESENTED

15) If the district court denied the petitioner's motion to supplement this case with a cause of action for equitable relief against the County Of Los Angeles Settlement policy on 1st July 1999 without reason when the petitioner in pro -per had standing to bring the case at the time - and if this denial prejudiced this case and the subsequently filed related case, as the 9th Circuit reversed and remanded the separate action *Bernhardt v County Of Los Angeles* et al 279 F.3d 862 on 4th Feb 2002 but held that prospective relief was moot, and if this petition for writ of certiorari was filed in this court two days before the 9th Circuit's 4th February 2002 decision regarding mootness, and so a live case or controversy for injunctive relief did exist at the time of the 9th Circuit decision, See *Burke v. Barnes*, 479 U.S. 361, 363, 93 L. Ed. 2d 732, 107 S. Ct. 734 (1987), and if "the capable of repetition, yet evading review" exception to mootness also applies, See *Spencer v. Kemna*, 523 U.S. 1, 17, 140 L. Ed. 2d 43, 118 S. Ct. 978 (1998) , then whether the district court order Number 36 which denied supplementation of this case with the related case should be reversed?

PARTIES TO PROCEEDING

The Petitioner is Angela Bernhardt.

The Santa Monica College et al Respondents are - Santa Monica Community College District, Santa Monica College, Santa Monica College Police Department, Santa Monica College Board Of Trustees, , R. L. Jones, Ron Marable, O.D. Obiamiwe, Eileen Miller, Brenda Simmons, Piedad Robertson, Jo Ann Fielder, Robert Sammis, Herbert Roney, Dorothy Ehrhart - Morrison, Nancy Cattell-Luckenbach, Carole L. Curry, Patrick Nichelson, Annette Shamey.

The County Of Los Angeles et al respondents are - County Of Los Angeles, Los Angeles County Sheriff Department, Laurence D Rubin, 1-10 Caucasian Male Sheriff Deputy Does Of Judge Laurence D Rubin's Courtroom R & County Of Los Angeles Sheriff Department, Sherman Moten, Terry January, Leroy Baca, County Of Los Angeles Santa Monica Municipal Court. Does 1-100.

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SUPPLEMENTARY BRIEF

This supplementary brief, (a.k.a supplemental brief) pursuant to Supreme Court Rule 15 - (8) – calls attention to *Bernhardt v. County Of Los Angeles et al*, 279 F.3d 862 (9th Circ 4th Feb. 2002) (USDC Central District Of California Case No. CV-99-10121-JSL (Mc))- 9th Circuit Case No. 00-55524), which was reversed & remanded on February 4th 2002, two days after this Petition for Writ of Certiorari 01-1254 was filed on 2nd February 2002. The 9th Circuit reversal has changed the status, and made it necessary to revise Question Presented Number 9 (Page i), and the argument for it following, from the Petition For Writ of Certiorari and Question 15 has also been added (Page ii), on account of the change in status of the related case.

JUDICIAL NOTICE

Petitioner requests that the court take Judicial Notice of the following which are relevant to Revised Question Presented 9.

1. *Bernhardt v. County Of Los Angeles et al*, 279 F.3d 862 (published 9th Circ 4th Feb. 2002).
2. *Bernhardt v Santa Monica College et a*l, (unpublished 9th Circuit June 25th 2001) (in Petition For Writ Of Certiorari at Appendix A - App 1 through 4)
3. The true meaning of the term "vexatious litigant".
4. The district court's vexatious litigant orders (In the Petition For Writ Of Certiorari - Appendix B -App 5 through 7) & in the record as District Docket 92, 93.
5. The order to show cause why plaintiff should not be declared a vexatious litigant pursuant to Fed.R. Civ. P. 11 & Local Rule 27A entered March 24th 2000 - (At Appendix B - App 8 and App 9) & in the record as District Court Docket 83.

JUDICIAL NOTICE

Petitioner requests that the court take Judicial Notice Of the following which are relevant to Question Presented 1 through 8, and Question Presented 14. See *Mir, M.D., v. Little Company of Mary Hospital*, 844 F.2d 646; 649 (9th Circuit 1988) "In addition to the complaint, it is proper for the district court to "take judicial notice of matters of public record outside the pleadings" and consider them for purposes of the motion to dismiss."

6a. The Small Claim from County Of Los Angeles Municipal Court, No SM 98 A01 437 filed on 2nd Sept 1998

6b. The Small Claims default judgment filed on Oct 6th 1998 at Santa Monica Judicial District (19484) Address 1725, Main Street Santa Monica California 90401 (In Petition For Writ Of Certiorari at Appendix C App 40 through 45, and at district court docket 1 attached to the original complaint)

Petitioner requests that the court take Judicial Notice Of the following which are relevant to Questions Presented 12, 13, and 14 and all questions.

7. The Christopher Commission Report (Report) which identified the "code of silence" Report of the Independent Commission on the Los Angeles Police Department 168 (1991) (the Christopher Commission Report).

JUDICIAL NOTICE

Petitioner requests that the court take Judicial Notice Of the following relevant to Questions Presented Question Presented No 14 of this case No 01-1254.

8. The Supreme court's briefs, amicus briefs and the Supreme Court 9th January 2002 transcript in the case of *National Railroad v Morgan* No 00-1614, which is pending in this court, concerning continuing violation doctrine in discrimination cases.

9. Petitioner's continuing violation sexual assault-discrimination, retaliation, hostile environment complaint under Title IX in the 1st Amended Complaint, (Petition For Writ Of Certiorari Volume II (Continuation Of Appendix) Page 2 through 98.

ARGUMENT 9

BACKGROUND

The court in June 1999 denied supplementing this case with a case seeking equitable relief against the County Of Los Angeles settlement policy. See the district court order denying supplementation (Appendix B App 34 entered 1st July 1999). The related case was filed as a separate case on Oct 4th 1999 case No. CV-99 -10121 -JSL-(Mc) and after being dismissed in February 2000, was reversed and remanded on 4th February 2002, See *Bernhardt v. County Of Los Angeles et a*l, 279 F.3d 862 (9TH Circ 4th Feb. 2002)

TWO INCONGRUENT 9TH CIRCUIT DECISIONS REGARDING VEXATIOUS LITIGANT ORDER

This 9th Circuit published decision of 4th February 2002 is incongruent to its prior unpublished 9th Circuit decision of 25th June 2001 which affirmed the vexatious litigant order on this case. See (Appendix A Page App 4) where the 9th Circuit states "We affirm the orders raised in Appeal No 00-55930 including but not limited to the district court's vexatious litigant order entered on May 1st 2000 , See *De Long v Hennessey* 912, F. 2d 1144, 1146-48 (9th Circuit 1990)"

The incongruence is not immediately visible - as the 9th Circuit's 4th February 2002 published decision attacks the district court's justification for the vexatious litigant order unknowingly - through reversing and remanding related case CV-99-10121-JSL (Mc) which is a large part of the district court's justification for the vexatious litigant order.See the district court vexatious litigant order (Appendix B App 5.) Note: The district court's full justifications for the vexatious litigant order are set out in the Court's order entered May 1st 2000. (See Petition For Writ Of Certiorari Appendix B at Page App 5 and App 6)

As the 9th Circuit's most recent published decision reverses and remanded petitioner's related case, part of the district court's reason for the vexatious litigant order has evaporated - which creates a great probability that the other justifications that the district court found for the vexatious litigant order i.e. "failing to state a claim against multiple defendants", "frivolous" claims, arguments and conclusions were also made in error.

ARGUMENT 9

DUE PROCESS & EQUAL PROTECTION OF THE LAWS

Due Process requires notice and an opportunity to be heard, Powell, 851 F. 2d at 431. The standard for measuring the adequacy of these procedural protections increases in proportion to the significance of the interest at stake. *Morrissey v. Brewer*, 408 U.S. 471, 481, 33 L ed. 2d 484, 92 S. Ct. 2593 (1972) The petitioner was not given due process of law or equal protection of the laws on the vexatious litigant order. *De Long v Hennessey* 912 F. 2d 1144, 1146-48 (9th Circuit 1990). as there was no adequate notice from the district court's order 83 See order to show cause at (Appendix B - Page App. 9) as it does not disclose or describe the specific conduct that appears to violate subdivision FRCP 11 (b) pursuant to FRCP 11 c (1) (B) in Plain English, before the court entered the order, without a hearing on May 1st 2000. See the district court order that cancelled the hearing (Appendix B Civil Minutes - App 7).

ARGUMENT 15

The district court prejudiced petitioner's case(s) by denying petitioner's motion to supplement this case in June 1999 with a cause of action against the County Of Los Angeles settlement policy for equitable relief which would have attracted lawyers to this case, and as 9th Circuit ruled on 4th Feb 2002 in the separately filed related action - *Bernhardt v County Of Los Angeles* that the petitioner had standing to bring the case when she filed that lawsuit- then it follows that petitioner must have had standing to bring the case in June 1999 when she made a motion to supplement this case with it - as the injury had occured by Oct 6th 1998, and continued after it.

CONCLUSION

The 9th Circuit published decision to reverse related case *Bernhardt v County Of Los Angeles* et al 279 F.3d 862 (9th Circuit 4th Feb 2002) is at odds with its earlier unpublished decision of 25th June 2001, as the more recent decision reverses part of the district court's justification for entering the vexatious litigant order placed on this case - as the related case itself - was a reason for the vexatious litigant order, as was the earlier Motion To Supplement this case with it. The 4th Feb 2002 decision to reverse and remand the related case also shows it was a district court error to deny petitioner's Motion to Supplement her Complaint with a complaint asking for equitable relief against the County Of Los Angeles Settlement policy on July 1st 1999 as she had standing to bring the case and the denial has prejudiced both case(s). Also the earlier 9th Circuit 25th June 2001 unpublished decision to affirm 00-55596, and 00-55930 has made the mistake of not looking to the Full Faith And Credit act, 28 USCS § 1738 and this court's precedent in *Kremer v. Chemical Construction Corp* 456 U.S. 461; 102 S. Ct. 1883; 72 L. Ed. 2d 262; 1982, and gave a greater preclusive effect to a Small Claims default judgement than would the Court of the State from which the judgment emerged, and cited to no authority to justify their res judicata decision.

Angela Bernhardt

Angela Bernhardt Petitioner In Pro Per 3/28/2002

Supreme Court, U.S.
FILED
APR 1 2002

No. 01-1254

IN THE

Supreme Court of the United States

ANGELA BERNHARDT,

Petitioner,

v.

SANTA MONICA COLLEGE, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

BRIEF IN OPPOSITION FOR SANTA MONICA RESPONDENTS

MARY L. DOWELL
LIEBERT CASSIDY WHITMORE
6033 West Century Boulevard
Suite 601
Los Angeles, California 90045
(310) 981-2000

Attorneys for Santa Monica Respondents

173229

COUNSEL PRESS
(800) 274-3321 • (800) 359-6859

3488

LIST OF PARTIES

The Santa Monica Respondents include Santa Monica College as well as Santa Monica Community College District, Santa Monica College Board of Trustees, Santa Monica College Police Dept., R. L. Jones, Ron Marable, Eileen Miller, Piedad Robertson, Robert Sammis, Joanne Fielder, Brenda Simmons, Herb Roney, Dorothy Ehrhart Morrison, Nancy Cattell, Carol L. Curry, Illona Jo Katz, Patrick Nichelson and Annette Shamey.

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The Santa Monica Respondents respectfully request that the Court deny the Petition. Petitioner has set out nineteen separate questions she believes can properly be considered by this Court. However, none of them meet this Court's standard for an issue appropriately submitted for the Court's consideration and, therefore, the Petition should be denied.

STATEMENT OF THE CASE

The Santa Monica Respondents vigorously dispute the Statement of the Case presented by Petitioner, as well as the articulations of issues in the case, and submit the following statement of the facts and the proceedings in the District Court and Court of Appeal.

Giving Petitioner's original Complaint filed in the District Court for the Central District of California the most generous construction possible, it appeared to allege as follows. In July, 1994, while she was a student at Santa Monica College, Petitioner experienced an unwelcome encounter with an instructor which she believed was sexual in nature. (In her Complaint, she called this encounter a "restrained sexual assault.") She did not bring this incident to the attention of any other person at Santa Monica College. She finally reported the incident to the Santa Monica College Police Department in November, 1996. She was advised that the incident was probably too old to investigate adequately, but the officer she spoke to did interview her and did interview the accused instructor. He suggested she report the matter to the administration at the College, which she did not do for at least six more months.

In April, 1997, for reasons that appeared on the face of the Complaint to involve the Student Conduct Code,

Petitioner was directed to meet with a Santa Monica College administrator. Although Petitioner apparently believed that this direction violated her due process rights in some way, she never actually alleged that the direction in itself was improper. From the context, it actually appears that she was directed to meet with the administrator because of a complaint she *herself* had made about alleged misconduct by another student named "Mary." Thereafter, in May, 1997, Petitioner began more aggressively to pursue her claim that she had been sexually assaulted. In March, 1998, she filed a written complaint against the police officer who originally met with her. In August, 1998, despite the staleness of her claims, she was allowed to meet with the College President and other College administrators.

However, unhappy with the Santa Monica College Respondents' handling of her allegations, Petitioner filed a small claims action in Los Angeles Municipal Court. A hearing was held on October 6, 1998, in which the state court judge properly dismissed Petitioner's claims for failure to comply with state law tort claim requirements. In the course of the hearing, Petitioner became disruptive and was subdued by Sheriff's officers stationed in the courtroom.

Plaintiff thereafter filed a Complaint in federal district court on March 15, 1999. She named as defendants the Santa Monica College Respondents and also various individuals and branches of Los Angeles County, hereafter "County Respondents." The Complaint was virtually incomprehensible, but giving it the most generous construction possible, it appeared to allege civil rights claims under 42 U.S.C Section 1983 and by extension claims under 42 U.S.C. Section 1985, Title IX of the Education Amendments of 1972, and Title VI of the Civil Rights Act of 1964. It also alleged

various pendent state tort claims. The Court granted Motions to Dismiss pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure by both the Santa Monica College Respondents and the County Respondents on October 8, 1999.

In his Order granting the Motion, Judge Spencer Letts explained the procedural history of this matter:

> Plaintiff filed her complaint on March 15, 1999. On the face of the complaint, plaintiff indicated her belief that the complaint would need to be amended. Pursuant to Federal Rule of Civil Procedure 15(a), plaintiff was entitled to file an amended complaint prior to the filing of any responsive pleading, or within twenty days of service. Plaintiff did not amend the complaint, and certain defendants filed responsive pleadings.
>
> On May 3, 1999, defendants moved to dismiss plaintiff's entire complaint. Rather than opposing the motion to dismiss, on May 12, 1999, at the Informal Status Conference, plaintiff instead indicated that she had prepared an Application for Leave to Amend the Complaint, which was filed that day, wherein she acknowledged that her complaint was defective and requested additional time to prepare and file an amended complaint. Defendants agreed to abandon their objections to plaintiff's filing an amended complaint at that juncture of the case, and to permit plaintiff to amend her complaint within a reasonable time. Defendants also agreed to withdraw their motion to dismiss. The court directed the parties to agree to a time certain by which plaintiff would file her amended complaint.

Rather than immediately proposing a deadline, as contemplated by the court, not until May 30, 1999, almost three weeks after the Informal Status Conference, did plaintiff request that she be allowed another three months, until September 1, 1999, to amend her complaint. Defendants proposed that plaintiff be allowed 30 days to amend her complaint. The parties were unable to agree, and plaintiff filed another motion for additional time to amend her complaint. Plaintiff's motion for additional time was denied by the court on June 19, 1999. On July 7, 1999, nearly four months after filing her complaint and nearly two months after her initial request to amend, plaintiff filed her first amended complaint.

On August 25, 1999 and September 3, 1999, the County Defendants and Santa Monica College Defendants, respectively, filed motions to dismiss plaintiff's first amended complaint. Rather than filing a timely opposition, on September 21, 1999, plaintiff instead filed an ex parte application for more time to prepare and file a second amended complaint, for leave to file additional exhibits to the first amended complaint, and for a continuance of the hearing on the motions to dismiss. Plaintiff's ex parte application was denied. On October 4, 1999, two weeks after it was due, plaintiff filed a document entitled "Plaintiff Angela Bernhardt's Early Opposition to Santa Monica College et al Defendants [sic] Motion to Dismiss Plaintiff's Complaint under FRCP 12(b), A More Thorough Version Shortly," in which she states that "a much fuller version [is] to follow shortly." Opposition at 4.

> At the time her initial complaint was filed, plaintiff knew it was deficient and would need to be amended. Plaintiff was given ample time, almost four months, to correct the defects in her initial complaint and submit her claims to the court in an amended complaint. (ER 53.)

The Court accordingly dismissed the Santa Monica College Defendants from the lawsuit. The Court further explained in its Order:

> By repeatedly requesting additional time to file amended complaints that were not yet drafted, and now by claiming that "a much fuller version" of her opposition is "to follow shortly," plaintiff has attempted to avoid having the court examine the merits of her claims. Plaintiff's requests have not been valid, and have forced defendants to incur needless additional expense in opposing plaintiff's requests.
>
> The basic facts underlying plaintiff's complaint have not changed. Plaintiff claims that in 1994, defendant Jones sexually harassed her, and that over the next few years, the remainder of the defendants failed to properly handle plaintiff's reporting of the harassment. Defendants have a right to respond to the allegations against them and, therefore, to have the court act on their motions to dismiss without further delay.

Several months later, on March 24, 2000, the District Court ordered petitioner to show cause why she should not be declared a vexatious litigant pursuant to Federal Rule of

Civil Procedure, Rule 11, and Local Rule 27A. Petitioner was afforded a full opportunity to respond on the Order to Show Cause, and she did so on April 14, 2000. The District Court on April 28, 2000 issued an Order Declaring Plaintiff a Vexatious Litigant.

Petitioner then appealed to the Ninth Circuit Court of Appeals from both the order granting the motions to dismiss and the order declaring her a vexatious litigant. Her appeals were consolidated by the Court of Appeals. She filed extensive, complex and verbose Opening and Reply Briefs, but as discussed below in the Argument, she never raised most of the issues she tries now to submit to this Court. The matter was fully briefed to the Court of Appeals by all parties. On June 25, 2001, the Ninth Circuit issued a Memorandum Opinion that was even more succinct than the District Court's orders:

> With respect to [the appeal from the order of dismissal] . . . We affirm on grounds that Bernhardt's state tort claims against the Santa Monica College Defendants are barred by the doctrine of res judicata, and because Bernhardt failed to prosecute her remaining claims.
>
> With respect to [the appeal from the order declaring her a vexatious litigant] we affirm the orders . . . including, but not limited to, the district court's vexatious litigant order entered on May 1, 2000.

Petitioner sought rehearing and rehearing en banc, both of which were denied by the Ninth Circuit by order filed October 5, 2001. This order bears the specific direction that "no further filings shall be accepted in this closed appeal."

This Petition was filed February 1, 2002. True to form, Petitioner sought several extensions of time from this Court before she succeeded in filing the Petition.

SUMMARY OF ARGUMENT

Petitioner's lawsuits against the Santa Monica Respondents and the County Respondents were properly disposed of by the District Court, and that order was properly affirmed by the Ninth Circuit Court of Appeals. Her federal civil rights claims against the Santa Monica Respondents were *not*, as she seems to think, dismissed by the District Court based on the small claims court judgment. They were correctly dismissed by the District Court based on the arguments contained in the Motion to Dismiss, which established that the District Court did not have jurisdiction over the Santa Monica Respondents for the federal claims. The pendent state claims *were* barred by res judicata. This decision was a correct application of California law.

Petitioner never presented her theories regarding the full faith and credit clause to the Court of Appeals, although they could have been heard there. She similarly failed to make her arguments regarding issue preclusion. She completely misrepresents the state of the record and the true rulings of all three of the Courts below (the District Court, the Court of Appeals and particular the Los Angeles County Small Claims Court, which she repeatedly describes as having issued a "default" judgment). She was properly found to be a vexatious litigant.

The Court should not hesitate in this case to deny the Petition.

REASONS FOR DENYING THE WRIT

I. PETITIONER HAS PRESENTED QUESTIONS TO THE COURT NOT ENCOMPASSED BY THE PROCEEDINGS BELOW.

Petitioner has articulated nineteen separate "questions presented." She has presented these issues in too poorly focused a way for this Court to consider. Morever, she has presented issues that were not considered by the District Court or the Court of Appeal. She cannot raise them for the first time to this Court.

Rule 14-4 of the Rules of the United States Supreme Court provides that the failure of a Petitioner to present with *accuracy, brevity and clarity* whatever is necessary to ready and adequate understanding of the points requiring consideration is sufficient reason for the Court to deny a petition. [emphasis added] Nineteen "issues" defy the purposes of the writ of certiorari, which is traditionally a very narrow examination. The Petition can be properly denied on the grounds that Rule 14-4 has been violated. Petitioner cannot excuse herself; even Petitioners proceeding *in propria persona* are held to the requirements of the rules.

Most of Petitioner's nineteen questions concern matters not argued to the courts below. She cannot raise them for the first time by way of a petition for writ of certiorari to this Court.

II. THE COMPLAINT WAS PROPERLY DISMISSED UNDER RULE 12(b)(6).

Petitioner repeatedly states that her federal civil rights claims were dismissed by the District court because of the

res judicata effect given to the proceedings in the Los Angeles Small Claims Court. A review of the record shows that this was *not* the case. The federal claims were correctly dismissed for lack of jurisdiction. Thereafter, the *pendent state claims* were dismissed based on the res judicata effect of the Small Claims action.

A. *The District Court lacked jurisdiction over the Santa Monica Respondents on Petitioner's federal civil rights claims.*

1. *All of Appellant's Claims Were Barred by the Applicable Statute of Limitations.*

When a federal statute does not contain a specific statute of limitations period, it is settled practice to adopt the appropriate state statute of limitations. *Wilson v. Garcia*, 471 U.S. 261, 105 S. Ct. 1938, 85 L. Ed. 2d 254 (1985). This Court has ruled that the appropriate statute of limitations in 42 U.S.C. § 1983 civil rights cases is the state's personal injury statute. *Wilson v. Garcia*, 471 U.S. at 280, 105 S. Ct. at 1949; *See also Del Percio v. Thornsley*, 877 F.2d 785 (9th Cir. 1989). In California, the statute of limitations for personal injury claims is one year. California Code of Civil Procedure 340(3).

While state law determines the limitations period in a federal civil rights action, the determination when the limitations begins to run is governed solely by federal law. *Owens v. Okure*, 488 U.S. 235, 109 S. Ct. 573, 102 L. Ed. 2d 594 (1989). In federal civil rights actions, the statute of limitations begins to accrue at the time the plaintiff receives notice of the constitutional deprivation. *Delaware State College v. Ricks*, 449 U.S. 250, 101 S. Ct. 498, 66 L. Ed. 2d

431 (1980); *Chardon v. Fernandez*, 454 U.S. 6, 102 S. Ct. 28, 70 L. Ed. 2d 6 (1981).

The limitations periods on Petitioner's various claims began to accrue no later than the dates the Complaint states that Petitioner was aware they had occurred. At various points in the Complaint, Petitioner alleged events involving Santa Monica College Respondents in July, 1994; in November, 1996; and in April 1997. She did not bring this action until March 15, 1999. Her claims under 42 U.S.C. Sections 1983, and by extension her claims under 42 U.S.C. Section 1985, Title IX of the Education Amendments of 1972, and Title VI of the Civil Rights Act of 1964, were barred by the applicable limitations period.

2. *The Trial Court Had No Jurisdiction over the Santa Monica College Respondents, Because the Eleventh Amendment Bars Suits Against California's Educational Entities under 42 U.S.C. Section 1983.*

> The United States Constitution, Amendment XI states:
>
> "The judicial power . . . shall not . . . . extend to any suit in law or equity . . . . against one of the United States by Citizens of another State or by Citizens or Subjects of any Foreign State."

The Eleventh Amendment is interpreted as a grant of sovereign immunity to the states against suit in federal court "in the nature of a jurisdictional bar." *Alabama v. Pugh*, 438 U.S. 781, 782, 98 S. Ct. 3057, 3057-3058, n.1; 57 L. Ed. 2d 1114 (1978); *Seminole Tribe of Florida v.*

Florida, 517 U.S. 44, 116 S. Ct. 1114, 1122, 134 L. Ed. 2d 252 (1996); *Kimel v. Florida Board of Regents* 120 S. Ct. 631, 528 U.S. 62 (2000).

a. *A California Community College District Is Immune from Liability under 42 U.S.C. Section 1983.*

Under the Eleventh Amendment, agencies of the state are immune from private damage actions or suits for injunctive relief brought in federal court. Immunity attaches regardless of the nature of the relief sought. *Pennhurst State School & Hosp. v. Halderman*, 465 U.S. 89, 100, 104 S. Ct. 900, 907, 79 L. Ed. 2d 67 (1984); *Alabama v. Pugh*, 438 U.S. 781, 98 S. Ct. 3057, 57 L. Ed. 2d 1114 (1978). To determine whether a governmental entity is an arm of the state, federal courts look to the way state law treats the entity. *Mt. Healthy City School Dist. Board of Ed. v. Doyle*, 429 U.S. 274, 97 S. Ct. 568, 50 L. Ed. 2d 471 (1977); *Rutledge v. Arizona Board of Regents*, 660 F. 2d 1345, 1349 (9th Cir. 1981), *aff'd. sub nom. Kush v. Rutledge*, 460 U.S. 719, 103 S. Ct. 1483, 75 L. Ed. 2d 413 (1983).

California law has long and consistently treated public school and community college districts as state agencies for the local delivery of education. *Hall v. City of Taft*, 47 Cal. 2d 177, 302 P. 2d 574 (1956). Examining *Hall* and its progeny, the Ninth Circuit has had occasion, in evaluating cases brought under 42 U.S.C. Section 1983, to examine every type of educational entity existing at the local level in California to determine whether Eleventh Amendment immunity applies. In every case, it has found that immunity applies. *Mitchell v. Los Angeles Community College District*, 861 F. 2d 198 (9th Cir. 1988); *Belanger v. Madera Unified*

School District, 963 F. 2d 248 (9th Cir. 1992), *cert denied*, 113 S. Ct. 1280 (1993); *Eaglesmith v. Ward et al* , 73 F.3d 857, 860 (9th Cir. 1995); *Kirchmann v. Lake Elsinore School District*, 2000 WL 1507321 (Cal. App. 2000).[1]

The status of a community college district under California law is well established; no further factual showing was necessary. Under *Mitchell* and *Belanger*, dismissal was well-founded.

b. *Any Claims for Injunctive Relief Were Also Barred.*

Petitioner only sought money damages in this action. However, even if she had been granted leave to amend to include injunctive relief, the Eleventh Amendment would still bar the claims. Immunity attaches in cases where the only relief sought is injunctive. *Papasan v. Allain*, 478 U.S. 265, 277-78, 106 S. Ct. 2932, 2940, 92 L. Ed. 2d 209 (1986). See also, *Brooks v. Sulphur Springs Valley Elec. Co-op*, 951 F. 2d 1050, 1053, n.1 (9th Cir. 1991).

3. *The Immunity Extends to the Individual Named Respondents.*

An officer of a state agency, sued in his or her official capacity, is immune under the Eleventh Amendment from claims for monetary damages. *Hafer v. Melo*, 502 U.S. 21, 27, 112 S. Ct. 358, 116 L. Ed. 2d 301 (1991); *Jackson v. Hayakawa*, 682 F. 2d 1344, 1350 (9th Cir. 1982). State officials are immune from actions for monetary damages because such

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1. For these reasons, Petitioner's citation in her Question No. 11 to *Monell v. Department of Social Services*, 436 U.S. 658, 98 S. Ct. 2018, 56 L. Ed. 2d 611, is especially inapposite.

actions are actions against the governmental entity of which the officer is an agent. State officials are also immune from actions for injunctive relief where, as discussed above, the relief sought is primarily retrospective in nature. See, *Belanger v. Madera Unified School District*, *supra.*, 963 F. 2d at 250, n.1.

The Complaint sought general damages against all the entities and individuals named by Petitioner as defendants, and "each of them." Clearly it does not distinguish between individual Santa Monica College Respondents in this respect. Dismissal was properly granted as to *all* the claims for relief based on 42 U.S.C. Section 1983.

4. *The Individual Santa Monica College Respondents Named in Their Individual Capacities Were Entitled to Assert Qualified Immunity from Liability.*

Insofar as the many individual Santa Monica College Respondents named by Petitioner were named as individuals, rather than their official capacities, they were entitled to assert qualified immunity as an affirmative defense. *Wood v. Strickland*, 420 U.S. 308, 318, 95 S. Ct. 992, 43 L. Ed. 2d 214 (1975); *Brandon v. Holt*, 469 U.S. 464, 471-473, 105 S. Ct. 873, 878, 83 L. Ed. 2d 878 (1985). The defense of qualified immunity protects "governmental officials . . . from liability for civil damages insofar as their conduct does not violate clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald* 457 U.S. 800, 818, 102 S. Ct. 2727, 2738, 73 L. Ed. 2d 396 (1982).

a. *Individual Santa Monica College Respondents Were Entitled to Be Dismissed from this Matter Even at this Early Stage of the Proceedings.*

The issue of qualified immunity is a threshold issue which is to be determined by a court at the earliest possible stage of litigation. *Mitchell v. Forsyth*, 472 U.S. 511, 105 S. Ct. 2806 (1985); *Anderson v. Creighton*, 483 U.S. 635, 107 S. Ct. 3034 (1987). As noted by the Ninth Circuit in *Thorsted v. Kelly*, 858 F. 2d 571 (9th Cir. 1988), since qualified immunity is an immunity from suit rather than a mere defense, "it is essential that 'insubstantial claims' be resolved as quickly as possible." 858 F. 2d at 575.

In *Branch v. Tunnell*, 937 F. 2d 1382 (9th Cir. 1991), the Ninth Circuit adopted a heightened pleading standard for cases in which the alleged "clearly established law" at issue contains a subjective element, such as motive or intent. See also, *Branch v. Tunnell*, 14 F. 3d 449 (9th Cir. 1994).

All of Petitioner's Claims for Relief were extremely conclusory and did not provide any degree of specificity. Indeed, the Claims for Relief alleged no more than the making of ordinary decisions regarding the management of a community college and providing assistance to an uncooperative student pressing a stale claim of sexual harassment. The Claims for Relief did not even allege with any specificity which of the individually named Santa Monica College Respondents was supposed to have done what to Petitioner. Under the doctrine of *Branch v. Tunnell*, these unsupported conclusory allegations were insufficient. The District Court properly dismissed them, and the Ninth Circuit properly affirmed.

b. *Qualified immunity protected the Santa Monica Individual Respondents from this action.*

The qualified immunity test is a two-part inquiry. First, was the law governing the official's conduct clearly established, and second, under that law, could a reasonable official have believed his or her conduct was lawful. "The threshold determination of whether the law governing the conduct at issue is clearly established is a question of law for the court." *Act Up!/Portland v. Bagley*, 988 F.2d 868, 872 (9th Cir. 1993).

The Claims for Relief contained in the Complaint failed on their face to state *any* violation of constitutional rights. Accordingly, they certainly did not meet the standard for a claim of "clearly established statutory or constitutional rights of which a reasonable person would have known." *Harlow v. Fitzgerald, supra.* In determining whether any constitutional right is implicated, the Court must look at the particular, relevant context rather than at the abstract and general. *Anderson v. Creighton, supra*, 483 U.S. at 639-641, 107 S. Ct. at 3039-3040. The reason for this level of specificity is to enable "a reasonable official [to] understand that what he is doing" is unlawful. *Id.*

In California, public governing boards and officers are immune from liability for discretionary decisions. California Government Code § 820.2. *See, e.g., Caldwell v. Montoya*, 10 Cal.4th 972, 42 Cal.Rptr.2d 842 (1995). Even if state law immunities did not apply, *in individual capacity actions* Appellees "may assert personal immunity defenses such as objectively reasonable reliance on existing law." *Hafer v. Melo*, 502 U.S. 21, 112 S. Ct. 358, 362, 116 L. Ed. 2d 301, 309 (1991); *Kentucky v. Graham*, 473 U.S. 159, 166, 105 S. Ct. 3099, 3105, 87 L. Ed. 2d 114 (1985).

Both federal and state law show that the individual Santa Monica College Respondents were not violating any well established right of Petitioner's. To the contrary, they were merely performing their job duties, and the law provides them individual immunity for doing so. The individual Appellees were entitled to assert qualified immunity from suit, and the trial court correctly dismissed the causes of action against them at this stage of the pleadings.

5. *The Complaint Fails to State Any Claims for a Violation of Constitutional Rights.*

Petitioner tried to weave various federal constitutional and statutory claims throughout her Complaint, but on its face her effort failed and the District Court properly rejected her claims.

She attempted to assert a violation of 42 U.S.C. Section 1983 by alleging a "restrained sexual assault" by her instructor. She also apparently characterized this as a violation of Title IX of the Education Amendments of 1972 and/or of 42 U.S.C. Section 2000e et seq. (Title VI). But she never alleged that she was subjected to the alleged "restrained sexual assault" *because of* her sex, as required by these statutes. *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75, 118 S. Ct. 998, 140 L. Ed.201(1998). Her claims under 42 U.S.C. Section 1983 and 1985, and under Title IX and Title VI, were properly dismissed. Petitioner similarly failed to articulate any actions by Santa Monica College Respondents which could be construed as violations of constitutional rights. Her claims under 42 U.S.C. Section 1983, and concomitantly her claims under 42 U.S.C. Sections 1985 and 1986, were properly dismissed.

B. *The State Law Tort Claims Against the Santa Monica College Appellees Were All Barred by the Doctrine of Res Judicata, by the Failure to Present a Timely Claim, and by Their Vagueness and Ambiguity.*

The Complaint, as it relates to the Santa Monica College Respondent, also contained a confused series of common law state tort claims. The trial court properly declined to assert any jurisdiction over them whatsoever.

1. *The state tort claims were barred by res judicata.*

Pursuant to the Complaint itself, it appears that Petitioner's court action in the small claims court of the Los Angeles Municipal Court involved all the same state court causes of action that she included as pendent state claims in her Complaint filed with the District Court. The District Court and Court of Appeals properly concluded she could not relitigate in federal court claims already dismissed by a state court. The state court case was *dismissed*, not defaulted. That determination was res judicata as to those state court claims. (See discussion below regarding effect of such claims under California. law.)

2. *The state tort claims were barred by the failure to present timely claims.*

Petitioner's tort claims (battery, defamation, intentional infliction of emotional distress, intentional misrepresentation, negligence, false arrest, "unlawful detainment," "unlawful search," assault and battery) were all barred by her failure to present timely claims to the Santa Monica Community

College District. This fact was recognized by the Los Angeles Court which heard Petitioner's first lawsuit, resulting in the dismissal of her claims in small claims court. Although Petitioner alleged that she tendered the requisite claims, she did not and cannot allege timely compliance with the law.

III. THE LOWER FEDERAL COURTS DID NOT FAIL TO GIVE PROPER FULL FAITH AND CREDIT TO THE DECISION OF THE SMALL CLAIMS COURT.

As discussed above, neither the District Court nor the Court of Appeals held that Petitioner's federal civil rights claims were barred by the doctrine of res judicata based on the decision of the Small Claims Court. They were barred by her failure to state a viable claim in her Complaint, and her failure to amend the Complaint when given the opportunity. The District Court and the Court of Appeals did conclude that her pendent state claims were barred by the doctrine of res judicata based on the decision of the Small Claims Court. In this respect, the lower federal courts correctly applied California law.

A. *California Small Claims Court Judgments are Res Judicata in the Federal Courts.*

The Small Claims Courts of California are provided for at California Code of Civil Procedure Section 116.110 et seq. The jurisdiction of the Small Claims Court, set out at Code of Civil Procedure section 116.220, extends to matters if the amount of the demand does not exceed five thousand dollars. It is a simplified form of litigation in which no attorneys appear. Code of Civil Procedure Section 116.530. The judgment is final as to the plaintiff, but a defendant may appeal. Code of Civil Procedure Section 116.710. A plaintiff

that fails to appear may move to vacate the judgment. Code of Civil procedure Section 116.720.

The California Supreme Court has long held that judgments of a Small Claims Court will be res judicata as to the issues actually before it. In *Sanderson v. Niemann*, 17 Cal. 2d 563, 110 P. 2d. 1025 (1941) the California Supreme Court concluded that a judgment of a Small Claims Court is res judicata to a second suit on the same cause of action. The California high court said in *Sanderson:*

> As is pointed out in the leading case of *Todhunter v. Smith*, 219 Cal. 690 [1934] the doctrine of *res judicata* has a dual aspect. The authorities indicate that although a judgment of any court whether of high or low jurisdiction, and of record or not, constitutes a complete bar against a second suit on the *same* cause of action, in a second suit upon a *different* cause of action it constitutes but an estoppel or conclusive determination of such issues only as were actually raised and litigated.

The Ninth Circuit Court of Appeals, in considering the effect in federal court of a California small claims court judgment, has interpreted its jurisdiction in accordance with the statements in *Sanderson.* In *Hawkins v. Bewley Allen Cadillac*, 959 F. 2d 240 (9th Cir. 1992), the Court of Appeal concluded:

> A federal court must give the same preclusive effect to a state court judgment as would the courts of the state where the judgment was rendered. *Allen v. McCurry*, 449 U.S. 90, 105 (1980). In California, a small claims court judgment is

> final and res judicata and precludes future actions on the same claim or cause of action. *Sanderson v. Niemann*, 17 Cal. 2d 563, 573, 110 P. 2d 1025, 1030 (1941). A valid final judgment on the merits in favor of a defendant serves as a complete bar to further litigation on the same cause of action. *Slater v. Blackwood*, 15 Cal. 3d 791, 795, 126 Cal. Rptr. 225, 226, 543 P. 2d 593, 594 (1975) (en banc). The California courts employ the primary rights theory to determine whether the same cause of action is at issue. *Eichman v. Fotomat Corp.*, 147 Cal. App. 3d 1170, 1174, 197 Cal. Rptr. 612, 614 (1983). "[I]f two actions involve the same injury to the plaintiff and the same wrong by the defendant then the same primary right is at stake even if in the second suit the plaintiff pleads different theories of recover, seeks different forms of relief and/or adds new facts supporting recover." *Id.* Thus, the invasion of one primary right gives right to one cause of action. *Slater*, 15 Cal. 3d at 795.

B. *Petitioner's Pendent State Claims Were Barred by Res Judicata.*

Clearly here, the lower federal courts gave the correct preclusive effect to the Small Claims Court judgment. Petitioner was the plaintiff in that action, and she chose the forum. She did not prevail. Her state tort claims were found by that court to be barred by her failure to present a required claim under California Government Code Section 800 et seq. She attempted to assert them again as pendent claims in her Complaint to the District Court. The federal courts properly gave res judicata effect to the Small Claims Court determination, and dismissed her pendent state claims.

Petitioner's arguments regarding whether the Small Claims Court had jurisdiction over the Respondents are bewildering at best. It is not clear whether she is referring to jurisdiction over the Santa Monica College Respondents or the County Respondents. The record reflects that the Santa Monica Respondents appeared in the small claims court proceeding, and the court was certainly competent to render judgment in their favor.

Petitioner's repeated references to a "default" judgment in the small claims proceeding is likewise obscure. Petitioner was the plaintiff in that proceeding. She lost her case. She thereupon became disruptive and had to be forcibly subdued by Sheriff's officers stationed in the courtroom. There was no "default" in the case. Plaintiff lost, and had no right to appeal.

The lower federal court determinations regarding the effect of the Small Claims Court judgment on the pendent state claims were correct.

IV. PETITIONER WAS PROPERLY DECLARED A VEXATIOUS LITIGANT.

The District court issued its order to show cause regarding declaring Petitioner a vexatious litigant *sua sponte.* The order was not requested by any defendant in the case. But, the record amply supports the correctness of the District court's ruling, and the Ninth Circuit was correct to affirm it.

Petitioner was not entitled to any particular leniency from the federal courts because she is a pro per litigant. Such litigants are entitled to certain patience from the courts because of their lack of experience and sophistication. But they are not entitled to abuse the courts' process any more than litigants represented by counsel may do so.

Petitioner's behavior in this case was set out very clearly in the District Court's Order Granting Defendants' Motion to Dismiss filed October 8, 1999. She persisted in her inappropriate efforts to invoke the court's process. The standard set out by the Ninth Circuit in *De Long v. Hennessey*, 912 F. 2d 1144, 1146-68 (9th Cir. 1990) was met. The Ninth Circuit correctly affirmed the District Court's order.

CONCLUSION

Santa Monica College Respondents urge the Court to deny this Petition. It presents no question appropriate for review by this Court.

Respectfully submitted,

MARY L. DOWELL
LIEBERT CASSIDY WHITMORE
6033 West Century Boulevard
Suite 601
Los Angeles, California 90045
(310) 981-2000

Attorneys for Santa Monica Respondents

(5)

No. 01-1254

Supreme Court, U.S.
FILED
APR 30 2002
OFFICE OF THE CLERK

In the Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, &
COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

REPLY BRIEF

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

67 pp

QUESTIONS PRESENTED

1. Whether there is any constitutional recognizable preclusion at all under the Full Faith and Credit Statute 28 USCS §1738 to a State Small Claims default judgment when the State's Small Claims procedure did not satisfy the applicable requirements of the Due Process Clause of the Fourteenth Amendment. ***Kremer v. Chemical Construction Corp.***, 456 U.S. 461, 480-83 & n.**22**, 72 L. Ed. 2d 262, 102 S. Ct. 1883 (1982)

2. Whether a federal court must consider pursuant to the full faith and credit statute 28 USCS §1738 the preclusion law of the state in which the prior judgment was rendered and whether the 9th Circuit's refusal to consider the principles of California's preclusion law by holding that a prior Small Claims judgment obtained by default, on a common law claim bars petitioner's state tort claims, and petitioner's subsequent Civil Rights claims, conflicts with the holding of this Court in ***Migra vs Warren City School Dist. Bd. of Educ.*****, U.S. 465 U.S. 75, 104 S.Ct. 892, 896 (1984), that "a federal court must give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which the judgment was rendered"?**

QUESTIONS PRESENTED

3. **Whether the 9th Circuit's** silent holding within the **res judicata decision that the County Of Los Angeles Small Claims court was of competent jurisdiction to issue a Small Claims judgment when the Small Claims court knew personal jurisdiction of the government defendant(s) was lacking, - conflicts with this court's explicit holding in Bradley v Fisher 80 U.S. (13 Wall.) 335 at 344, 20 L.Ed. 646 (1871)**_____"It is not enough that it have jurisdiction over the subject-matter of the complainant generally; it must have jurisdiction over the particular case, and if it have not, the judgment is void" And Bradley at 352 "Where there is clearly no jurisdiction over the subject-matter any authority exercised is a usurped authority, and for the exercise of such authority, when the want of jurisdiction is known to the judge, no excuse is permissible"

4 Whether the California Small Claims default judgment is void if the California Small Claims court did not have personal jurisdiction over the Government defendants, and if the procedure did not comply with the due process clause of the fourteenth amendment. *Burnham v. Superior Court Of California, County Of Marin* 495 U.S. 604, 609; 110 S. Ct. 2105; 1990; 109 L. Ed. 2d 631 (1990) Quoting *Case of the Marshalsea*, 10 Coke Rep. 68b, 77a, 77 Eng. Rep. 1027, 1041 (K.B. 1612). At 1028 _____"When a Court has jurisdiction of the cause, and proceeds inverso ordine or erroneously, no action lies against the party who sues, or the officer or minister of the Court, who executes the precept or process of the Court; **when the Court has not jurisdiction of the cause, the whole proceeding is coram non judice** [before someone who is not a judge], and an action will lie against them, without any regard to the precept or process" In Pennoyer v. Neff, 95 U.S. 714, 732 (1878), ... [The Supreme Court] announced that the judgment of a court lacking personal jurisdiction violated the Due Process Clause of the Fourteenth Amendment as well"

QUESTIONS PRESENTED

5. **Whether the** County Of Los Angeles **Small Claims court is entitled to judicial immunity for non judicial acts** of allowing police brutality in his courtroom in which the defendant Police Officer could participate, suppressing the identities of the County Of Los Angeles Caucasian Sheriffs Deputy Bailiffs that caused police brutality to Petitioner on Oct 6th 1998 in Courtroom R, and for supporting a defamatory statement that petitioner lunged at him first raised at 9th Circuit appeal, which is untrue, **and acting in the clear absence of personal jurisdiction by entering a judgment for the** Santa Monica College **Government entity and Police officer defendants when the Small Claims court knew there was no personal jurisdiction over them** [See PWC Appendix G App 79 & 80 California Code Civil Procedure § 116.220 (e) & (f)] **in circumstances where the Small Claims court did not make clear -or give Petitioner due process of law on the California Government Code Claims requirement** [See PWC -Appendix G App 80-82 California Government Code §911.4, §911.6 §905.2, §905.4 etc.]

6. Whether a State Small Claims court's dismissal of a common law action for failure to comply with the California Government Code claim requirement may preclude a subsequent Federal Civil Rights action between the same parties with new parties and new Federal Civil Rights claims that could not possibly have been sued upon in the first claim, because of the possibility that the plaintiff in the Federal Civil Rights action could previously have brought a Federal Civil Rights claim against the original defendants of the Small Claims action in a regular State Court (but did not), and when the Small Claims court provides for more limited relief than that which is provided by the Federal Civil Rights laws?

QUESTIONS PRESENTED

7. Whether there is an exception to 28 U.SCS.§ 1738 for Federal Civil rights claims under 42 USC§ 1983, §1985 (2) & (3), and claims under the continuing violation theory for Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. (Title IX), if these claims were not, or could not have been raised in the prior Small Claims lawsuit, but were subsequently raised in this Federal lawsuit, and if this exception to U.S.C § 1738 would give the State Court's Small Claims default judgment, a greater preclusive effect than would the courts of the state rendering the judgment

8 Whether it is one of the "accepted principles of res judicata" that no party may be precluded by a prior litigation from raising a claim that such party could not have raised in that prior litigation, due to the lack of subject matter jurisdiction of the first tribunal over the subsequent claim, and, if so, whether the Ninth Circuit's aforesaid claim preclusion holding for petitioner's State Tort Claims as well as petitioner's Civil Rights claims also conflicts with *Federated Department Stores v. Moitie*, 452 U.S. 394, 398-99 (1981)?

QUESTIONS PRESENTED

9) Does a District Court generated vexatious litigant order with a 500$ per filing fee under USDC Central District Of California Local Rule 27 (a) violate equal protection of the laws and due process clause of the Fourteenth Amendment and infringe on a pro per litigant's right of access into the district court now, *Bounds v. Smith*, 430 U.S. 817, 52 L. Ed. 2d 72, 97 S. Ct. 1491 (1977), *Wolff v. McDonnell*, 418 U.S., at 579, when the district court did not inform the pro per litigant in Plain English of the specific conduct appearing to violate subdivision FRCP 11 (b) pursuant to FRCP 11 c (1) (B) prior to entering the vexatious litigant order and cancelling the hearing -

In circumstances where two Civil Rights lawsuits were filed in half a century,

and if part of the district court's justification for the vexatious litigant order (affirmed by 9th Circuit in an unpublished opinion on June 25th 2001), were overuled in *Bernhardt v County Of Los Angeles et al* 279 F.3d 862 (9th Circuit 4th Feb 2002) as the related case itself, and the earlier motion to supplement it to this case were part of the district court's justifications for the vexatious litigant order (Appendix B App 5) ,

and if the vexatious litigant order is not narrowly tailored because it doesn't fit the district court's specific vices encountered See *De Long v Hennessey* 912 F. 2d 1144, 1146-48 (9th Circuit 1990))

QUESTIONS PRESENTED

10. Whether the lower courts erred by not deeming all the facts of Petitioner's complaint as true for Motions To Dismiss purposes under FRCP 12 (b) (6), contrary to this Court's precedent in *Lujan v Defenders Of Wildlife et al*, 504 U.S. 555; at 561, 112 S. Ct. 2130; 119 L. Ed. 2d 351; 1992, & implementing an extreme departure standard of review from *Steckman v Hart Brewing Inc* 143 F.3d 1293; 1998 (9th Circ. 1998), to review a pro per Civil Rights litigant's complaint and Motions To Dismiss de novo, when Steckman is not the applicable standard of review for reviewing motions to dismiss de novo in a pro - per civil rights case -

in circumstances where the excessive force and false arrest facts and claims of this 1st Amended complaint have been deemed true in *Bernhardt v. County Of Los Angeles* 279 F.3d 862 at 867 (9th Circuit 4th Feb 2002 U.S) for Motion To Dismiss purposes, as the related case contains identical facts for these claims.

in circumstances where the district court cut the pro per off from amending the 1st Amended complaint without warning See [PWC Appendix B Transcript Of Proceedings 6th July 1999. App 28] & General Civil Minutes For Informal Status Conference 12th May 1999 at [Appendix B App 37] & [Appendix B App 32-35], set no time limit to amend the 1st Amended Complaint, and refused a continuance on the two motions to dismiss hearing.

QUESTIONS PRESENTED

11. Whether the 9th Circuit decision that petitioner failed to prosecute her remaining claims is an error if petitioner stated a Municipal Violation under 42 USC 1983 & 1985 (2) & (3) against County Of Los Angeles respondents and applicable Santa Monica College et al respondents see *Monell vs Department of Social Services Of City Of New York* 436 US 658 98 S Ct 2018, 56, L.Ed. 2d 611, 1978, 253, 258, 259. *Pembaur v Cincinnati* 475 US 469 106 S Ct 1292, 89, L Ed 2d 452 (1986) and if these claims were dismissed for failing to State a Claim under a FRCP 12 (b) (6) motion for noncompliance with USDC Central District Of California Local Rules 7.6 and 7.9 which does not rise to the level of a failure to prosecute under FRCP 41(b) See *Torres v. Oakland Scavenger Co.*, 487 U.S. 312, 319-320, 101 L. Ed. 2d 285, 108 S. Ct. 2405 (1988) (Brennan, J. dissenting) *Carver v Bunch* , 946 F.2d 451; 453, 454, 455, (6th Circuit 1991) *Schilling v. Walworth County Park & Planning Commission*, 805 F.2d 272, 276-77 (7th Cir. 1986) *J.F. Edwards Const. Co. v. Anderson Safeway Guard Rail Corp.*, 542 F.2d 1318, 1323 n. 6 (7th Cir. 1976) ("Unless the violation of a local rule constitutes failure to prosecute, Rule 41 does not provide for dismissal for violation of a local rule.").

QUESTIONS PRESENTED

12. Whether the lower courts erred in dismissing the County Of Los Angeles Caucasian Doe Sheriffs Bailiffs of Judge Laurence D Rubin's Courtroom R for failing to serve them personally because when there is a primae facie case for false arrest without a valid warrant the burden of production shifts to the municipal entity to prove that there was probable cause for a warrantless arrest .and assault and battery - and if this holding to dismiss the County Of Los Angeles Caucasian Does because they were not served personally {See App B, page 13 (last paragraph), page 14] ***conflicts with Bivens v Six Unknown Named Agents Of Federal Bureau Of Narcotics*** **403 U.S. 388; 91 S. Ct. 1999; 29 L. Ed. 2d 619; 1971 U. S, and the 9th Circuit's more recent published holding in Dubner v City of San Francisco 266 F.3d 959; (9th Circuit Sept 2001)** as well as with Maclin v.Paulson, 627 F.2d 83, 87 (7th Cir. 1980),Gordon v. Leeke, 574 F.2d 1147, 1152 (4th Cir. 1978)

13 Whether County Of Los Angeles respondents Terry January and Sherman Moten appeared in County Of Los Angeles Motion To Dismiss, if they were named in the proposed order [PWC Volume II App F. Page 128-131] **presented to the district court to sign.**

13b And if so – whether defenses under a FRCP 12 (b) (6) motion can be waived under FRCP 12 (g) and (h) as the County Of Los Angeles Sheriffs could have raised the defenses of insufficiency of service of the summons and complaint and lack of personal jurisdiction at the time of their motion to dismiss but did not raise the defenses, and

QUESTIONS PRESENTED

13c Whether petitioner should be given due process to serve Sheriff Terry January and Sherman Moten personally under FRCP 4 (m). - If they did not appear in this case and if there are mitigating circumstances for failure to prosecute when they concealed a defect in the service of the summons & complaint which continued in their Motion To Dismiss proposed order. See (App F Page 129, 130, 131), & if the district court did not warn her that they must be served personally

14a Whether a school district may be held liable under Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. (Title IX), under the continuing violation theory see *Havens Reality Corp v Coleman* 455 U.S. 363 365(1982) for sexual harassment and discrimination, hostile environment & retaliations, when the claim is not based solely on one incident of a instructor sexual assault on a student in a class, but is challenging an unlawful practice of continuing violation sexual discrimination by the same school district instructor,& the unlawful practices of school district, to cover up the complaint when she reported it to them, & frame her which resulted in physical injury to petitioner in a County Of Los Angeles Courtroom on Oct 6th 1998.

14b. If a school district may be held liable under the continuing violation theory for damages under Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C § 1681 et seq. - then whether School district police cover up of a sexual assault complaint & continuing a Small Claims proceeding & disseminating false testimony fabricated prior to the proceeding that resulted in police brutality, false arrest & unlawful detainment to the petitioner during the proceeding Oct 6th 1998 can be considered as an incident in the series of continuing violations constituting sexual discrimination, retaliation & hostile environment.

QUESTIONS PRESENTED

14c Whether the cumulative effect of all claims - stemming from, and including the sexual assault of 1994, may be included for purposes of the continuing violation - sexual harassment discrimination, retaliation and hostile educational environment claim under Title IX, see *Harris v Forklift Systems Inc*, 510 U.S. 17; 114 S. Ct. 367; 126 L. Ed. 2d 295; 1993 for damages purposes.

14d Whether a school district police officer investigator, should be regarded as a "School District Discrimination official" to fulfill the actual notice requirement of Title IX for a student to report a sexual assault complaint, and if not - whether constructive notice and respondeat superior should be permitted in a Title IX case ... - see *dissent Gebser, v. Lago Vista Independent School District 524 U.S. 274; 118 S. Ct. 1989; 141 L. Ed. 2d 277; (June 22nd 1998)* -

which understood "an incentive for School Boards to insulate themselves from knowledge about sex discrimination in school programs" and if petitioner sustained physical injury on Oct 6th 1998 on account of a causal chain stemming from that incentive, and in order to eliminate the incentive & prevent victims of sex discrimination from a far greater risk of further injury if they do speak up, than if the Title IX right and remedy didn't exist at all.

QUESTIONS PRESENTED

15 If the district court denied the petitioner's motion to supplement this case with a cause of action for equitable relief against the County Of Los Angeles Settlement policy on 1st July 1999 without reason when the petitioner in pro -per had standing to bring the case at the time -

and if this denial prejudiced this case and the subsequently filed related case, as the 9th Circuit reversed and remanded the separate action *Bernhardt v County Of Los Angeles et al* 279 F.3d 862 on 4th Feb 2002 but held that prospective relief was moot,

and if this petition for writ of certiorari was filed in this court two days before the 9th Circuit's 4th February 2002 decision regarding mootness, and so a live case or controversy for injunctive relief did exist at the time of the 9th Circuit decision, See *Burke v. Barnes,* 479 U.S. 361, 363, 93 L. Ed. 2d 732, 107 S. Ct. 734 (1987),

and if "the capable of repetition, yet evading review" exception to mootness also applies, See *Spencer v. Kemna,* 523 U.S. 1, 17, 140 L. Ed. 2d 43, 118 S. Ct. 978 (1998),

then whether the district court order Number 36 which denied supplementation of this case with the related case should be reversed?

PARTIES TO PROCEEDING

The Petitioner is -Angela Bernhardt

The County Of Los Angeles et al respondents are - County Of Los Angeles, Los Angeles County Sheriff Department, Laurence D Rubin, 1-10 Caucasian Male Sheriff Deputy Does Of Judge Laurence D Rubin's Courtroom R & County Of Los Angeles Sheriff Department, Sherman Moten, Terry January, Leroy Baca, County Of Los Angeles Santa Monica Municipal Court. Does 1-100.

The Santa Monica College et al Respondents are - Santa Monica Community College District, Santa Monica College, Santa Monica College Police Department, Santa Monica College Board Of Trustees, , R. L. Jones, Ron Marable, O.D. Obiamiwe, Eileen Miller, Brenda Simmons, Piedad Robertson, Jo Ann Fielder, Robert Sammis, Herbert Roney, Dorothy Ehrhart - Morrison, Nancy Cattell-Luckenbach, Carole L. Curry, Patrick Nichelson, Annette Shamey.

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Petitioner In Pro - Per respectfully requests that the Court grant the Petition For Writ Of Certiorari.. Petitioner has highlighted the most relevant questions, & revised Question 5, & 10.

PRELIMINARY MATTER

Santa Monica College (SMC) et al, have misrepresented this Petition by omitting County Of Los Angeles (LA) et al parties from their list of parties in their Brief in Opposition. The County Of Los Angeles parties inclusion in this lawsuit, makes this a different lawsuit from Petitioner's Small Claim filed 2nd Sept 1998, where only three Santa Monica College respondents were parties and where the cause of action was not the same as the many different ones of this lawsuit – In audition the California Supreme Court in *Sanderson v Niemann,*17 Cal. 2d 563, 573,110 P.2d 1025, 1030 (1941)"refused to apply issue preclusion to judgments of Small Claims Courts in subsequent actions based on different causes of action from that involved in the prior Small claims suit, though tracing its origin to the same transaction"

ARGUMENT

1. THE LOWER FEDERAL COURTS FAILED TO GIVE PROPER FULL FAITH AND CREDIT TO A CALIFORNIA SMALL CLAIMS DEFAULT JUDGMENT CONTRARY TO 28 USC § 1738 & *KREMER V CHEMICAL CONSTRUCTION CORP.* 456 U.S. 461, 466 (1982) - "28 USC§ 1738 Does Not Allow Federal Courts To Employ Their Own Rules Of Res Judicata"

The 9th Circuit decisions of 25th June 2001, and 5th Oct 2001, **at** *[Petition For Writ Of Certiorari (PWC) Appx A 4, 1-4,]* **&** at *[Appx E App 55]* did not give the same preclusive effect to a California Small claims judgment at *[PWC Appx C Page App 45]* as the Courts in California would give it, & cited to no authority to justify res judicata, regarding Petitioner's State Tort Claims against SMC et al. In addition the district court never ruled on res judicata. ***See Order (53)*** *[Appx BApp 21 -25].* And although the 9th Circuit Court. Of Appeals can affirm on any theory argued below even if the district court decided the matter on different grounds. See *Spokane County v. Air Base Housing, Inc.*, 304 F.2d 494, 497 (9th Cir. 1962) **the grounds must be supported by the record *Recording Industry Ass'n of America v. Diamond Multimedia Sys., Inc.*, 180 F.3d 1072, 1077 (9th Cir. 1999). In this case the complaints or the record does not support the res judicata grounds.**

2. CLAIM & ISSUE PRECLUSION DO NOT APPLY WHEN THERE WAS NOT A FULL AND FAIR OPPORTUNITY TO LITIGATE THE SMALL CLAIM IN THE STATE PROCEEDING. The Small Claims judgment was obtained by default for failure to file a California Government Code claim which wasn't clear, & the Police Officer raised the defense during a proceeding where no cross examination was permitted. The Small Claims court entered judgment without inquiry whether the California Claims requirement could me met, when it could be-& was after. *See California Government Code Claims [PWC Volume II Apix F page 99-106]..* **Also Santa Monica College Government entities never appeared at the Small Claims proceeding.**

In addition California Code Of Civil Procedure 116.220 (e) states **"A Small claims court shall have jurisdiction over a defendant only if Plaintiff has alleged... compliance of Government Code"** *[PWC - Volume II Appx F Page 87 THROUGH 91]*, and the Small claims court therefore did not have jurisdiction over the defendants. And in ***Pennoyer v. Neff***, 95 U.S. 714, 732 (1878), this court announced that the judgment of a court lacking personal jurisdiction violated the Due Process Clause of the Fourteenth Amendment as well..." Also in Kremer *v. Chemical Construction Corp.*, 456 U.S. 461, 480-81 & n.22, (1982), **"neither claim nor issue preclusion can be applied by a federal court if there was not a full & fair opportunity to litigate the claim or issue in the state proceeding. For Res judicata to be applied, a party has had a full and fair opportunity to litigate if the procedures provided meet the requirements of the Due Process Clause of the Fourteenth Amendment. Id. at 482-83 & n.24.** *Montana v United States*, 440 U.S.147,153,(1979); n22" Redetermination of issues is warranted if there is reason to doubt the ..Fairness of procedures followed in prior litigation" *Montana* 164, n.11

Petitioner stated in her 1st Amended complaint (Page1, 31, 32 33,37) that she did not have a full or fair opportunity to litigate the Small claim See ***[PWC-Appx F Vol II Page 3 No 4 Caption, Page 45]*** **& was beaten up in the process.** See ***[PWC - Volume II Appx F Page 83 , Page85 [under page 61], Page 86, Page 87, Page 88, Page 89, Page 90, Page 91],***

3 COLLATERAL ESTOPPEL DOES NOT APPLY TO CALIFORNIA SMALL CLAIMS JUDGMENTS IN SUBSEQUENT ACTIONS BASED ON A DIFFERENT CAUSE OF ACTION FROM THAT INVOLVED IN THE

PRIOR SMALL CLAIMS SUIT, THOUGH TRACING ITS ORIGIN TO THE SAME TRANSACTION

In *Sanderson v Niemann*,17 Cal. 2d 563, 573,110 P.2d 1025, 1030 (1941) The California Supreme Court refused to apply issue preclusion to judgments of Small Claims Courts in subsequent actions that are based upon a different cause of action from that involved in the prior Small claims suit, though tracing its origin to the same transaction." DIFFERENT CLAIMS The Small claim at [*PWC -Appx C Page App 41 point 1]* are not the same claim(s) as those in this lawsuit listed at *[PWC Vol II Appx F Page 3, 4]*,many claims had not occurred or accrued when the Small claim was filed 9/2/98, and so could not possibly have be sued upon in the Small claim.

DIFFERENT PARTIES County Of Los Angeles et al, Laurence Rubin, 1 -10 Caucasian Sheriff Deputy Bailiffs, RL Jones et al *[PWC Vol II Appx F Page 2,3]* were not parties to the Small Claim Case No.98A01437. The Small Claims Parties were SMC Police Officer R Marable, Santa Monica College and Santa Monica Community College District. see **Small Claim at** *[PWC Appx C App 40]*

CALIFORNIA LAW

In *Vandenberg, v. The Superior Ct Of Sacramento County* 21 Cal. 4th 815, 830; 982 P.2d 229; 238, (1999), states Collateral estoppel (like the narrower "claim preclusion" aspect of res judicata) is intended to preserve the integrity of the judicial system, promote judicial economy, and protect litigants from harassment by vexatious litigation. (*Lucido*, *supra*, 51 Cal. 3d 335, 343.) However, collateral estoppel " 'is not an inflexible, universally applicable principle;...Whether collateral estoppel is fair and consistent with public policy in a particular case depends in part upon the character of the forum that first decided the issue later sought to be foreclosed. In this regard, courts consider the judicial nature of the prior forum, i.e., its legal formality, the scope of its jurisdiction, and its procedural safeguards, particularly including the opportunity for judicial review of adverse rulings. *United States v. Utah Constr. Co.* (1966) 384 U.S. 394, 421-422 [86 S. Ct. 1545, 1559-1560, 16 L. Ed. 2d 642] findings..were entitled to collateral estoppel where ... **findings were relevant to issues presented, parties had full and fair opportunity to litigate, and judicial review of adverse findings was available]; ...Moreover, a particular danger of injustice arises when collateral estoppel**

is invoked by a nonparty to the prior litigation. (See, e.g., *Parklane Hosiery Co. v. Shore* (1979) 439 U.S. 322, 326-333 [99 S. Ct. 645, 649-653, 58 L. Ed. 2d 552] Such cases require close examination to determine whether nonmutual use of the doctrine is fair and appropriate. (See *Parklane Hosiery, supra*, at pp. 330-331 [99 S. Ct. at pp. 651-652

Santa Monica College et als unpublished *Hawkins v Bewley Allen Cadillac* 959, F. 2d 240 (9th Circuit 1992) citation did not comply with 9th Circuit rule 36- 3(c) and thus shouldn't be considered. Hawkins is inapposite as the causes of action contained in this complaint are not the same claim as the Small Claim. Also Unpublished *Hawkins* omits *Sanderson v Niemann's* collateral estoppel precedent for California Small Claims judgments. SMC et al never raised Collateral Estoppel as a defense in the district court. See *Clark v Bear Stearns & Co, Inc* 966 F.2d 1318; (9th Circuit 1992) which states if the record is inadequate for the district court to determine whether it should apply the collateral estoppel the 9th Circuit will not consider it on appeal Also **Petitioner did state Collateral estoppel & res judicata were inapplicable to this lawsuit in her 1st Amended Complaint (Page 4) at *[PWC Vol. II Appx F Page 7]* & & Appeal Briefs.**

4RES JUDICATA INAPPICABLE WHEN THE COURT HAD NO SUBJECT MATTER JURISDICTION OVER SUBSEQUENT CLAIMS.

A Small Claims Judgment Cannot be given the effect of extinguishing claims which did not even then exist in the lawsuit, and which could not possibly have been sued upon in the previous case See *Lawlor v. National Screen Service* 349 U.S. 322, at 328 99 L.Ed. 1122, 1127-1128, 75 S.Ct. 865 (1955) **Petitioner's Civil Rights & State Tort Claims of Excessive Force, False Arrest, Assault and Battery, Abuse Of Process etc. did not exist at the time the Small Claim was filed on 2nd Sept 1998.** See **Small Claim** at *[PWC Appx C Page App 41]*. Many claims occurred or accrued on or after Oct 6th 1998,see ***1st Amended Complaint Caption*** *[PWC Volume II Appx F page 3 and 4]*.As the Small Claims Court had no subject matter jurisdiction over any claims occurring or accruing on Oct 6th 1998 or after, the subsequent claims cannot be res judicata. Thus 9th Circuit's 25th June 2001 decision that the State Tort Claims against Santa Monica College et al are res judicata conflicts with *Lawlor* 349 U.S. 322 at 328, &

Cullen v. Margiotta, 811 F.2d 698, 732 (2dCir.1987). Restatement (Second) of Judgments § 26(1)(c)

5 EXCEPTION TO CLAIM & ISSUE PRECLUSIVE EFFECT FOR TRIBUNALS OF LIMITED JURISDICTION. The Small Claims court has no jurisdiction over Civil Rights claims ***See Small claims jurisdiction*** **California Code Of Civil Procedure 116.220** at *[PWC Appx G App 78- App 80]* .And in California if a court had no jurisdiction to decide an issue directly, then neither claim nor issue preclusive effect will be given to an incidental determination of the court," ***Shaw v State Of California Dept of Alcoholic Beverage Control*** **788 F.2d 600; (9th Circuit 1986)** ***Marrese v American Academy Of Orthopaedic Surgeons 470 U.S. 373; at 382 105 S. Ct. 1327; Eichman v Fotomat Corp*** 759 F.2d 1434; 1438 (9th Circ 1985);"

6. CALIFORNIA GOVERNMENT CLAIMS NOT NECESSARY FOR CIVIL RIGHTS CLAIMS *Williams v. Horvath* 16 Cal.3d 834, 842 [129 Cal.Rptr. 453, 548 P.2d 1125], (1976)**Subsequent Claims raised for the first time in Federal Court** -Cal Gov Code claims not required.

7..THE INVASION OF MORE THAN ONE PRIMARY RIGHT GIVES RISE TO AS MANY CAUSES OF ACTION AS RIGHTS VIOLATED EVEN THOUGH THEY MAY ARISE FROM A SINGLE SET OF FACTS. There are many primary rights violated in this Federal Civil Rights Law Suit case. Fora list please refer to [*Reply Brief PWC Appx H Page App 19 - App 20* see also *Sawyer v. First City Financial Corp., 124 Cal. App. 3d 390, 399, 177 Cal. Rptr. 398, 403 (1981) Agarwal v Johnson et al*, 25 Cal. 3d 932 955; 603 P.2d 58; 160 Cal. Rptr. 141 (1979)

8. THE DISTRICT COURT MUST DEEM THE FACTS TRUE UNDER FRCP 12 (b) (6) MOTIONS -*Lujan v Defenders Of Wildlife*, 504 U.S. 555; AT 561, 112 S. Ct. 2130; 119 L. Ed. 2d 351; 1992, & LIBERALLY CONSTRUE CIVIL RIGHTS PROPER'S COMPLAINTS.

The Excessive Force & False arrest claims in the **1st Amended complaint** were ignored in the court's Motions To Dismiss order.- **at *[PWC - Volume II Appx F Page 83 , Page 85 [under page 61] page 86 - 91]*** and so was **Petitioner's Opposition To County Of LA's Motion To Dismiss filed Oct 4th 1999** ***See [PWC Volume II Appx F Page 144 - 169].***

9. TWO 9TH CIRCUIT DECISIONS CONFLICT WITH ONE ANOTHER & THE DISTRICT COURT'S VEXATIOUS LITIGANT ORDER'S JUSTIFICATIONS IN THIS CASE HAVE BEEN OVERRULED BY 9TH CIRCUIT DECISION IN THE RELATED CASE. In Petitioner's Second Amended Complaint for related case- **CV-99-10121-JSL (Mc)** Page 2, & 3 Para 5A & 5B ***at [Appx I Of This Reply Brief] - Page App 31, App 32, 33]*** **the facts for excessive force and false arrest were deemed true for Motion To Dismiss purposes, which makes it inconsistent that 9th Circuit did not deem the same facts true in this case.For facts in this case-** ***See 1st Amended complaint [PWC - Volume II Appx F Page 83 , Page85 [under page 61], Page 86, Page 87, Page 88, Page 89, Page 90, Page 91],*** **The related case itself CV-99-10121 -JSL Mc was a justification for vexatious litigant order on this case,** see *[PWC -Appx B App 5]* but it is is now reversed and remanded. See *Bernhardt v. County Of Los Angeles* 279 F.3d 862 at 867 (9th Circuit 4th Feb 2002 U.S) As the excessive force and false arrest facts in the related case have been deemed true and this case has the same facts then it follows that the vexatious litigant order for this case does not narrowly fit the district court vice encountered, failing to state a claim and frivolous claims, as Petitioner has stated a claim for excessive force and false arrest for motions to dismiss purposes in both cases. *De Long vs Hennessey* 912 F 2d 1144, 1146-48 (9th Circuit 1990)

10 A The District Court Has Jurisdiction Over SMC College District, Santa Monica College & SMC Police dept. entities as **11th Amendment is abrogated with regards to suits under Title IX.** See The Education Amendments Of 1972, 86 Stat 373, as Amended 20 USC§ 1681 Et Seq (a) & **42 U.S.C §2000d7(a)(1)**

BThe District Court has jurisdiction over the Over SMCC District, SMC, & SMC Police dept. entities under 42 USC §1983, §1985 Because Section \5 of the Fourteenth Amendment, permits Congress to enforce by appropriate legislation the constitutional guarantee that no State shall deprive any person of life, liberty, or property, without due process or deny any person equal protection of the laws, *City of Boerne v. Flores*, 521 U.S. 507, 517, 526 (1997) & *Brzonkala v Morrison* 529 U.S. 598; 682, 120 S. Ct. 1740; 146 L. Ed. 2d 658; (2000) citing to ***Ex parte Virginia***, 100 U.S. 339, 25 L. Ed. 676 (1880). **C** SMC Police Dept, County Of LA, County Of LA Sheriffs Dept, and Santa Monica Municipal Court are not arms of the state, & not entitled to XI Amendment

Immunity & are separate suable entities or "persons" for *Monell* purposes under 42 USC §1983 and §1985. See *Streit v. County of Los Angeles*, 236 F.3d 552, 559-65 (9th Cir. 2001), *Shaw v. California Dep't of Alcoholic Beverage Control*, 788 F.2d 600, 605 (9th Cir. 1986) **D.** The Eleventh Amendment does not bar prospective injunctive relief against an officer of the state who acts outside the bounds of his authority. See *Ex Parte Young*, 209 U.S. 123, 52 L. Ed. 714, 28 S. Ct. 441(1908);**E JUDICIAL IMMUNITY NOT APPLICABLE TO NON JUDICIAL ACTS OR ACTING IN CLEAR ABSENCE OF PERSONAL JURISDICTION OVER SMALL CLAIMS DEFENDANTS.** ***Ex parte Virginia,*** 100 U.S. 339, 25 L. Ed. 676 (1880).***Bradley v Fisher*** **80 US (13 wall) 335 at 344, 20 L. Ed. 646 (1871,** ***Pennoyer*** **v.** ***Neff, 95 U.S. 714, 732 (1878), Burnham v Superior Court Of California*** **495 U.S. 604; at 608 & 609 (1990)** ***Case Of The Marshalsea*** **10 Coke Rep. 68 b, 76. 77a, 77 Eng. Rep. 1027, 1041 (K Bench 1612) . F** SMC & County Of LA respondents can be sued in Individual Capacity. *Kentucky v. Graham*, 473 U.S. 159, 165, 87 L. Ed. 2d 114, 105 S. Ct. 3099(1985) ...Id at 167-68. G.The Individual Capacity SMC and County Of LA Respondents are Not Entitled To Assert Qualified Immunity from Liability when the material facts are disputed.. Issues of credibility belong to the trier of fact. The Seventh Amendment so requires. *Thompson v. Mahre,* 110 F.3d 716, 719 (9th Cir. 1997) *La Londe v County Of Riverside* 204 F.3d 947; (9th Circuit 25th Feb 2000) & **Petitioner requested a Jury Trial,** ***1st Amended Complaint Caption (Page 1)****[PWC- Volume II- Appx F, Page 4]* **H. SMC & County Of LA individual respondents are not entitled to Qualified Immunity as a matter of law. As a reasonable teacher, police officer, Superintendent, Judge, Sheriff, Discrimination Official would not have believed their conduct was lawful.** See *Katzv.United States*, 194 F.3d 962, 967 (9th Circ.1999) **11 STATUTE OF LIMITATIONS NOT APPLICABLE – To TITLE IX CONTINUING VIOLATION SEXUAL DISCRIMINATION HOSTILE ENVIRONMENT RETALIATION CLAIM– WHICH ACCRUED 10/6/98, & LIMITATIONS NOT APPLICABLE TO CIVIL RIGHTS CLAIM.STATE TORT CLAIMS ACCRUING 3/17/1998 & 10/6/1998 AS THIS CASE WAS FILED 3/15/99** Petitioner alleged School District Officials (1) had actual knowledge of the discrimination by an SMC Instructor from Nov 1996 onwards (&

actual notice of SMC School District Police Cover up of Petitioner's sexual assault complaint against the instructor from 3/17/98 onwards, and (2) School District Officials responded to that knowledge with deliberate indifference. n4 *Gebser*, 524 U.S.at 290. Petitioner's complaint under Title IX sets out a series of violations sufficiently related, serial or systemic under Title IX, & the cumulative harm is indivisible The Continuing violation claim under Title IX, & most claims under 42 USC 1983 & 1985 accrued on Oct 6th 1998. Dismissal under FRCP 12(b)(6)-statute of limitations grounds is appropriate only if the assertions of the complaint, read with the required liberality, would not permit the Petitioner to prove the statute was tolled. *Jablon v. Dean Witter & Co.*, 614 F.2d 677, 682 (9th Cir. 1980)) :Equitable tolling & Estoppel were raised in 1st Amended Complaint *[PWC- Volume II Appx F - page 17, 30,* 31].The continuing violation doctrine was raised on appeal citing to *Morgan v.Amtrak,* 232 F.3d 1008 (9th Cir Nov 2000) [Now Supreme Court Docket 00-1614) *Draper v.Coeur Rochester, Inc.*, 147 F.3d 1104, 1107 (9th Cir. 1998)etc.

12 PETITIONER PRESENTED ISSUES CONCERING FULL FAITH AND CREDIT & RES JUDICATA TO THE 9TH CIRCUIT IN HER PETITION FOR REHEARING TO PANEL & EN BANC COURT after the MEMORANDUM DECISION OF 25th June 2001 which made a ruling on res judicata for the first time. Petitioner had raised the issue that neither res judicata nor collateral estoppel applied to the district court in her complaints. See in Excerpt *[Reply Brief PWC - AppX H Page App1, App 6-30]*, & 9th Circuit Petition For Rehearing filed 12th July 2000.

STATEMENT OF THE CASE

In 1994 SMC Instructor R.L Jones subjected Petitioner to disparate treatment.on the basis of her sex, *Petitioner* was at table in a photography class , when surprised by something hard being pressed up against her from behind. She turned around to find the Instructor with his erect genitals pressed up against her, and was unable to escape as the table blocked her movement.. After Petitioner was in a state of shock. *[PWCVol II, Appx F Page 22, 23]* Petitioner reported the assault to T Tindall the same day -*[PWC Vol II, Appx F Page 28]* The next day upon hearing sexual innuendo Petitioner told the Instructor to not touch her again. But by Nov 1996 a pattern of continuing violations emerged prompting Petitioner to report all the abuse to SMC Police Dept. SMC

Marable refused to take down the complaint in writing - said the sexual assault was too old to report, yet interrogated her about it. ***See 1st Amended complaint*** *(page 6 & 7 & 28 & 32 & 44-45, 47,55, 60)reproduced in [PWC Volume II, Appx F, Page 10 & 11, point 6 & Appx F Page 40 & 41 & Appx F Page 46, 63, 66,77 last line, 84]* SMC respondents misrepresent Petitioner's complaint(s) as Petitioner never stated SMC Police officer Marable interviewed the accused instructor Jones in November 1996. An SMC investigation began in June 1997, after the 3rd time Petitioner reported the Instructor's sexual assault on her to SMC Officials, but the results of **Feb 1998 do not confirm an interview between SMC Police Officer Marable's & the SMC Instructor in Nov 1996 because Marable is not mentioned in the Investigation Interviews.** *[PWC Appx D, App 49 No. II]* **[Note Officer's Marable's absence - prompted Petitioner to question Marable in March 1998 at which time she discovered his cover up of her sexual assault complaint].** Also the SMC Official Investigation - distorted where the sexual assault took place - a darkroom, & changed the Nov 1996 date of first reporting, to the later May 28th 1997 date, and decorated the later date with defamatory circumstances1. **Please take Judicial Notice Of The SMC Summary Of The Sexual Assault Investigation at**[PWC -*Appx D Page App 49 First pararagraph Number 1]*.Also if the Police Officer admitted receiving Petitioner's complaint all along then their would have been no Small Claims lawsuit for police cover up of a sexual assault complaint on Sept 2nd 1998. ***See Small Claim*** *[PWC Appx C App 41 under 1]*. So the full thrust of the Police Officer's refusal to record the complaint in Nov 1996 wasn't evident until 17th March 1998 when Petitioner discovered Officer Marable's cover up Then on reporting the School District Police cover up of her sexual assault complaint against the instructor to the SMC School District President in person in Aug 1998 - the response was to end the meeting by threatening the Petitioner with the School district police, & the School District Superintendent simultaneously refusing to investigate the police officer for police cover up ***See 1st Amended Complaint*** [P58,59] [PWC Vole II Appx F Page 80-82 2nd Para 82], stating that Officer Marable had already been investigated, & so the full thrust of SMC District's acquiescence in sexual discrimination & School District Police cover up of it wasn't clear until August 98. Then Petitioner sued in Santa Monica Small Claims Court & Marable appeared alone. ***See 1st Amended***

Complaint *(**Page** 37 at [PWC Vol II Appx F Page 53 1st Para].* SMC Police Officer Marable continued the proceeding knowing the California Government Claim requirement was not met, gave perjured testimony - & continued to state that he had not received a sexual assault complaint from the Petitioner ever, & raised the California Government Code requirement defense to end the proceeding abruptly which resulted in brutality - an assault & battery to the Petitioner by a County Of Los Angeles Caucasian Sheriff Deputy kicking the Petitioner to the floor, punching the Petitioner for two minutes around her ribcage, others joined digging their fingernails into the back of her hand, wrenching her metal framed glasses off her face, & allowing SMC Police Officer Marable to pose for a police brutality ritual, before falsely arresting her.*[PWC -Volume II Appx F Page 83, 84, 85,86, 87, 88,89]* On 9th Circuit appeals and not below - County Of LA et al state Petitioner lunged at Judge Laurence Rubin ***-See County Of Los Angeles Briefs for USCA 9th Circuit Appeals 00-55596, 00-55930 Page 1 footnote 1,***reproducted at *[PWC Volume II Apix F, 175],*but this is untrue and made more incredible as Petitioner was not arrested. Also Petitioner believes police brutality in Judge Laurence D Rubin's courtroom has been policy for many years, and not random because a few days after the beating Petitioner took, she remembered being told years before through a coincidence that Sheriff's beating people up took on a regular basis in Judge Laurence Rubin's courtroom " See 1st Amended Complaint (Page 65), & Opposition To County Of LA Motion To Dismiss-(Page 3, 4) & at *[PWC Volume II Appx F, Page 91,148, 149]* And so the full thrust of what was happening wasn't apparent until Oct 6th 1998 when petitioner was the victim of police brutality & false arrest without a valid warrant, unlawful detainment, because SMC respondents covered up the initial reporting of her sexual assault complaint in Nov 1996 & fabricated probable cause to arrest by SMC Police Officer Marable refusing to take Petitioner's sexual assault and continuing violation complaint down in writing in Nov 1996, & then by March 17 1998 completely covering it up.

CONCLUSION

Petitioner Angela Bernhardt In Pro Per urges this Court to Grant Her Petition. For Writ Of Certiorari As it presents one or more Questions appropriate for review. Respectfully Submitted

Angela Bernhardt Petitioner In Pro-Per 25th April 2002

A Bernhardt

APPENDIX H - APP 1

FILED 12TH JULY In United States Court Of Appeals For 9th Circuit

EXCERPT FROM APPELLANT ANGELA BERNHARDT'S PETITION FOR REHEARING AND SUGGESTION FOR REHEARING EN BANC THE UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT

95 Seventh Street. P.O.Box 193939 San Francisco, CA 94119-3939

USCA 9th - CASE No 00-55596 & 00-55530

Bernhardt v Santa Monica College et al, & County Of Los Angeles et al.

(omitted)

Page 6

(omitted)

8 *The Memorandum Opinion has overlooked that a federal court must give the same preclusive effect to a [Small Claim] state court judgment as would the courts of the state wher the judgment was rendered.*

Relevant Case

Allen v. McCurry, 449 U.S. 90, 105 (1980). In California, a small claims judgment has only limited res judicata effect and does not necessarily operate to bar subsequent proceedings on different causes of action. See ***Sanderson v. Niemann,*** 110 P. 2d 1025, 1031 (en banc) (1941).

(omitted)

8th July 2001 Angela Bernhardt In Pro - Per.

APPENDIX H - APP 2

Filed In United States Court Of Appeals For 9th Circuit 26th July 2001Dated 23rd July 2001

EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS-FRAP 28 (j) TO THE PANEL AND EN BANC COURT OF THE UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT. ***(Please Note: Citations have been placed under relevant issues to facilitate a quicker understanding, but content of document remains exactly same)***

THE UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT
95 Seventh Street. P.O.Box 193939 San Francisco, CA 94119-3939
USCA 9th - CASE No 00-55596 & 00-55530

Bernhardt v Santa Monica College et al, & County Of Los Angeles et al.

To The Clerk Of The Court -I am Angela Bernhardt, the appellant in pro per. Under FRAP 28 (j) I wish to include these pertinent & significant authorities that came to my attention since the filing of my briefs which support:

1) That Santa Monica College appellees[1] have not met their burden in explaining why Res Judicata or Collateral Estoppel is justified with respect to any cause of action or any issue in this case[2]

CITATIONS FOR ISSUE 1) *Younan v. Caruso*, 51 Cal. App. 4th 401, 406-07 (1996); see also *Trevino v. Gates*, 99 F.3d 911, 923 (1996)."The party asserting preclusion bears the burden of showing with clarity and certainty what was determined by the prior judgment."*Offshore*

FILED 26th July 2001 In United States Court Of Appeals For 9th Circuit

EXCERPT FROM APPELLANT ANGELA BERNHARDT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS -FRAP 28 (j) TO THE PANELAND EN BANC COURT OF THE UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT

USCA 9th - CASE No 00-55596 & 00-55530 - Bernhardt v Santa Monica College et al, & County Of Los Angeles et al.

1) *Youman v Caruso*, 51 Cal. App. 4th 401, 406-407 (1996) CON"*Offshore , Inc. v. Vuarnet International, B.V.*, 114F.3d 848, 850 (9th Cir. 1997). "Collateral estoppel, or issue preclusion, bars the relitigation of issues actually adjudicated in previous litigation between the same parties." *Clark v. Bear Stearns & Co., Inc.*, 966 F.2d 1318, 1320, 1321 (9th Cir. 1992) To foreclose relitigation of an issue under collateral estoppel: (1) the issue at stake must be identical to the one alleged in the prior litigation; (2) the issue must have been actually litigated in the prior litigation; and (3) the determination of the issue in the prior litigation must have been a critical and necessary part of the judgment in the earlier action.Id. at 1320. The party asserting preclusion bears the burden of showing with clarity and certainty what was determined by the prior judgment. Id. at 1321.

1) *Colon v Coughlin* 58 F.3d 865, 869 (2nd Circuit 1995) "...[T] he doctrine of issue preclusion only applies if (1) the issue in question was actually and necessarily decided in a prior proceeding, and (2) the party against whom the doctrine is asserted had a full and fair opportunity to litigate the issue in the first proceeding. See *Hill v. Coca-Cola Bottling Co* ., 786 F.2d 550, 552-53 (2d Cir. 1986); *Kaufman v. Eli Lilly & Co* ., 65 N.Y.2d 449, 455, 492 N.Y.S.2d 584, 588, 482 N.E.2d 63 (1985).Issue preclusion

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1. *Colon v Coughlin 58 F.3d 865, 869 (2nd Circuit 1995)* Continued - will apply only if it is quite clear that these requirements have been satisfied, lest a party be "precluded from obtaining at least one full hearing on his or her claim." *Gramatan Home Investors Corp. v. Lopez,* 46 N.Y.2d 481, 485, 414 N.Y.S.2d 308, 311, 386 N.E.2d 1328 (1979). The party asserting issue preclusion bears the burden of showing that the identical issue was previously decided, while the party against whom the doctrine is asserted bears the burden of showing the absence of a full and fair opportunity to litigate in the prior proceeding. *Kaufman* , 65 N.Y.2d at 456, 492 N.Y.S.2d at 588

NOTES FOR ISSUE 1

[1] Santa Monica College, Santa Monica Community College District and Ron Marable were the only appellees who were defendants in the Small Claim. Please take Judicial Notice Of the Small Claim filed Sept 2nd 1998 [ER –V1-61 & 62] which small claim is in the record but not attached to the First Amended Complaint.

[2] Small Claim 98A01437 filed 2 nd Sept 1998 did not include a cause of action against Santa Monica College teacher Larry Jones for sexual assault or continuing discrimination etc.Please take Judicial Notice of the Small Claim at[ER V1 – 61 & 62] **[NOTE SMALL CLAIM IS AT-PETITION FOR WRIT OF CERTIORARI APPENDIX C APP 40-45]**

FILED 26th July 2001 In United States Court Of Appeals For 9th Circuit

EXCERPT FROM APPELLANT ANGELA BERNHARDT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS -FRAP 28 (j) TO THE PANELAND EN BANC COURT OF THE UNITED STATES COURT OF APPEALS FOR NINTH CIRCUIT

USCA 9th - CASE No 00-55596 & 00-55530 - Bernhardt v Santa Monica College et al, & County Of Los Angeles et al.
NOTES FOR ISSUE 1- The district court has not made a ruling regarding Res Judicata or Collateral Estoppel with respect to any cause of action.or any issue in this case.

*Note: **All County Of Los Angeles appellees to include the County Of Los Angeles Caucasian Sheriff Does Of Judge Laurence D Rubin's courtroom R** all of whom were not a party and who could not have been a party to the Small Claims action because appellant's claims against them occurred & accrued after the Small Claim was filed on Sept 2nd 1998 **have not raised res judicata (or collateral estoppel) as a defense.*** Please take Judicial Notice of the Small Claim at[ER V1 – 61 & 62] ***Note: Santa Monica College appellees attorneys purposely confused res judicata in their answer brief on page 29** where they stated "Appellant's tort claims (battery, intentional infliction of emotional distress negligence, false arrest unlawful detainment unlawful search assault and battery were all barred by her failure to present timely claims to the Defendant Santa Monica Community College District. This fact was recognized by the Municipal court which heard Appellant's first lawsuit, resulting in the dismissal of her claims in Small Claims court. ... she cannot allege timely compliance with the law." **There has been an intentional muddling and appellant did try to warn the Court of Appeals in Appellant's Reply Brief Page 23 F.***

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2) That Federal courts must give the same preclusive effect to a (Small Claims) State Court judgment that those judgments would be given in the courts of the State from which the judgment emerged.[3]

One of the reasons Res judicata is not applicable in this case is because the California Government Claim requirement had not been fulfilled in the small Claims proceeding, because appellant in pro per did not know one was necessary, and as the California Government claim requirement is inoperative to bar an action[4] brought under 42 USC 1983 under California Law[5] it must be also inoperative under Federal Law[6].The ramifications of the command in California Supreme Court case ***Williams v. Horvath*** 16 Cal.3d 834, 842 [129 Cal.Rptr. 453, 548 P.2d 1125], (1976), that **the CaliforniaGovernment claim requirement under 910 et seq is inoperative to bar an action under 42 USC 1983**[7] and so when the California Government Claim is not filed in a Small Claims proceeding –that should not instantly make a metamorphosis into Res Judicata, during a Small Claims court "proceeding" – when Santa Monica College Police Officer Ron Marable, the only Santa Monica College defendant that appeared[9] raised the GovernmentClaims

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2) That Federal courts must give the same preclusive effect to a (Small Claims) State Court judgment that those judgments would be given in the courts of the State from which the judgment emerged - **Notes For Issue 2 continued** - requirement as a defense. and through a "judgment" which did not give clear findings, was not with prejudice and was not final[8] If the California Government Claim requirement is permitted to transform itself into Res Judicata during a Small Claims case when the defense was raised, and so therefore issues were not properly"heard" then this switch of the Government Claims requirement into the doctrine of res judicata would bar and avoid not only Small Claims hearings with claims requirements that could be timely fulfilled, but also any potential civil rights actions under 42 USC 1983 etc, which is what the California Supreme Court in *Williams* sought to avoid[10].
CITATIONS - ISSUE 2- *Kremer v. Chemical Construction Corp.*, 456 U.S. 461 466 (1982) That Federal courts must give give the same preclusive effect to a (Small Claims) State Court Judgment in California that those judgments would be given in the courts of the State from which the judgment emerged, and that section 1738 does not allow federal courts to employ their own rules of res judicata.

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CITATIONS - ISSUE 2-*Williams v. Horvath* 16 Cal.3d 834, 842 [129 Cal.Rptr. 453, 548 P.2d 1125], (1976) As aptly described in *Illerbrun v. Conrad* (1963) 216 Cal.App.2d 521 , 524 [31 Cal.Rptr. 27], the filing of a claim fordamages "is more than a procedural requirement, it is a condition precedent to plaintiff's maintaining an action against defendants, in short, an integral part of plaintiff's cause of action." And while it may be constitutionally permissible for the Legislature to place this substantive impediment in the path of a state cause of action, it is clear that the supremacy clause will not permit a like abrogation of the perquisites of a federal civil rights litigant. **Accordingly, we hold that the claim provision of section 911.2 is inoperative in an action brought under section 1983. Thus the fact that plaintiffs in the case at bar did not allege compliance with this provision is irrelevant to their claim under the Civil Rights Act.**

NOTES FOR ISSUE 2 - [3] *Kremer v. Chemical Construction Corp* ., 456 U.S. 461 466 (1982

[4] The California Government claim Requirement that is inoperative to bar an action brought under 42 USC 1983 is a preclusive effect. [5] *Williams v. Horvath* 16 Cal.3d 834, 842 [129 Cal.Rptr. 453, 548 P.2d 1125], (1976) Note: *Williams v Horvath* was raised in appellant's Reply Brief

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NOTES FOR ISSUE 2cont. -

Williams v Hovarth was raised in appellant's reply brief Page 23.

[6] *Kremer v. Chemical Construction Corp*., 456 U.S. 461 466 (1982

[7] &42 USC 1985 & Title IX

[8] Judicial Notice Appellant asks the court to take judicial notice of the Small Claim [ER -V1- 61 & 62]and Small Claim judgment [ER -V1- 67 & 68] which are not attached to the First Amended complaint, but which arein the District court record docket 1, where the Small claims court states-"Plaintiff takes nothing from this claim" ***Branch v. Tunnell*, 14 F.3d 449, 454 (9th Cir. 1994).** Documents specifically referred to in a complaint, though nor physically attached to the pleading, may be considered.

[9] the other Santa Monica College public entity defendants Santa Monica College and Santa Monica Community College District did not appear for the Small Claim of Oct 6th 1998,**even though they had been served.**

[10] Note: The Small claims court never questioned or gave appellant due process of law to see if the Government Claim requirment could be fulfilled.

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3) That Res judicata does not apply because appellant's excessive force/retaliation claim, abuse of process, unlawful detainment claim could not have been advanced in the earlier Small Claims suit, & were not advanced as these claims occurred and accrued as well as appellant's Title IX continuing injury sexual assault discrimination hostile environment retaliation claim also accrued after appellant filed her Small Claims suit on Sept 2nd 1898.[11,12]

CITATIONS FOR 3

Lawlor v. National Screen Service **349 U.S. 322, 328 [99 L.Ed. 1122, 1127-1128, 75 S.Ct. 865 (1955)** A judgment "precludes recovery on claims arising prior to its entry, [but] it cannot be given the effect of extinguishing claims which did not even then exist and which could not possibly have been sued upon in the previous case."

3) Migra v. Warren City School Dist. Bd. of Educ., 465 U.S. 75 , 77 n.1 (1984) "Claim preclusion refers to the effect of a judgment in foreclosing relitigation of a matter that never has been litigated, because of a determination that it should have been advanced in an earlier suit. The

APPENDIX H - APP 11

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Migra v Warren City School District Board Of Educ;, 465 U.S. 75, 77 n1, (1984) - preclusive effects of former litigation are commonly referred to as "res judicata.". Res judicata is often analyzed further to consist of two preclusion concepts: `issue preclusion' and `claim preclusion.'" Id. Issue preclusion refers to the effect of a judgment in foreclosing relitigation of a matter that has been litigated and decided. See Restatement (Second) of Judgments. This effect also is referred to as direct or collateral estoppel.

3) ***Rein v Providian Financial Corp*** **252 F.3d 1095; (9th Circ June 2001)**Res judicata, or claim preclusion, provides that a final judgment on the merits of an action precludes the parties from relitigating all issues connected with the action that were or could have been raised in that action. Claim preclusion is appropriate where: **(1)** the parties are identical or in privity; **(2)** the judgment in the prior action was rendered by a court of competent jurisdiction; **(3)** the prior action was concluded to a final judgment on the merits; and **(4)** the same claim or cause of action was involved in both suits. Collateral estoppel is appropriate when the following elements are met: **(1)** there was a full and fair opportunity to litigate the issue in the previous action; **(2)** the issue was actually litigated in that action; **(3)** the issue was lost as a result of a final judgment in that action; and **(4)** the person against whom collateral estoppel is asserted in the present action was a party or in privity with a party in the previous action. In re Palmer, 207 F.3d 566, 568 (9th Cir. 2000).

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(omitted)

4) California Law states that a Small Claim cannot be given collateral estoppel effect with respect to common issues arising in a subsequent proceeding on a different cause of action.

CITATIONS -4) *Sanderson v. Niemann* (1941) 17 Cal.2d 563 [110 P.2d 1025] "held that whereas a judgment of the small claims court may operate to merge with or bar a subsequent proceeding on the same cause of action, it could not be given collateral estoppel effect with respect to common issues arising in a subsequent proceeding on a different cause of action. Our conclusion on this latter point was reached in view of the characteristics of informality inherent in the small claims proceeding. "... [T]here are no attorneys, no pleadings and no legal rules of evidence; there are no juries, and no formal findings are made on the issues presented. At the hearings the presentation of evidence may be sharply curtailed, and the proceedings are often terminated in a short space of time. The awards -- although made in accordance with substantive law -- are often based on the application of common sense; and the spirit of compromise and conciliation attends the proceedings." (Id., at p. 573; see also Code Civ. Proc., § 117.) In these circumstances, we concluded, a judgment in such an action should not preclude the relitigation of issues decided therein in the

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(omitted)

Sanderson v. Niemann (1941) 17 Cal.2d 563 [110 P.2d 1025] Continued.—" in the context of a subsequent proceeding on a different cause of action. (See also Rest.2d Judgments (Tent. Draft No. 4) § 68.1, subd. (c), reporter's notes, pp. 44-45.)

****

5) Issue preclusion would not be fair or consistent with California public policy in this case because there was no consideration of the scope of the Small Claim court's jurisdiction, its procedural safeguards, and no judicial review of the Small Claims adverse rulings.

CITATIONS FOR ISSUE 5) ***Nevada v. Hall*****, 440 U.S. 410, 421-424, 59 L. Ed. 2d 416, 99 S. Ct. 1182 (1979)).** A court may be guided by the forum State's "public policy" in determining the law applicable to a controversy

5) ***Vandenberg, v The Superior Court Of Sacramento County*****, 21 Cal. 4th 815; 982 P.2d 229; Supreme Court Of California 1999 "Whether collateral estoppel is fair and consistent with public policy in a particular case depends in part upon the character of the forum that first decided the issue later sought to be foreclosed. In this regard, courts consider the judicial nature of the**

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***Vandenberg, v The Superior Court Of Sacramento County*, 21 Cal. 4th 815; 982 P.2d 229; Supreme Court Of California 1999 continued.** of forum that first decided the issue later sought to be foreclosed. In this regard, **courts consider the judicial nature of the prior forum, i.e., its legal formality, the scope of its jurisdiction, and its procedural safeguards, particularly including the opportunity for judicial review of adverse rulings.** (See, e.g., *United States v. Utah Constr. Co*. (1966) 384 U.S. 394, 421-422 [86 S. Ct. 1545, 1559-1560, 16 L. Ed. 2d 642] (Utah Constr. Co.) [findings by Board of Contract Appeals were entitled to collateral estoppel where agency acted in "judicial capacity," findings were relevant to issues presented, **parties had full and fair opportunity to litigate, and judicial review of adverse findings was available**]... ***Sanderson v. Niemann* (1941) 17 Cal. 2d 563, 573-575 [110 P.2d 1025] (Sanderson) [small claims judgments not entitled to collateral estoppel effect, given informality of proceedings, including limited right to judicial review]...Moreover, a particular danger of injustice arises when collateral estoppel is invoked by a nonparty to the prior litigation..Under these circumstances, the public policy reasons against applying the collateral estoppel doctrine** (see, e.g., *Lucido*, supra, 51 Cal. 3d 335, 343; Kelly, supra, 60 Cal. App. 3d 195, 202) well outweigh those in favor of doing

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6) The Restatement Of The Law, Second, Judgments support that the Small Claim filed Sept 2nd 1998 is not res judicata, and does not extinguish remedies against appellees with respect to a series of connected transactions out of which the Federal action arose, because Title IX continuing violation theory sexual assault discrimination hostile environment & retaliation claim & appellants claims of excessive force, and manufacturing false evidence and unlawful detainment and obstruction of justice & conspiracy claims under 42 USC Section 1983 and 1985, accrued in the Small Claims proceeding on Oct 6th 1998.

CITATIONS FOR 6 ***Restatement Of The Law, Second, Judgments*** § 24 Dimensions of "Claim" for Purposes of Merger or Bar -- General Rule Concerning "Splitting" 1) When a valid and final judgment rendered in an action extinguishes the plaintiff's claim pursuant to the rules of merger or bar (see §§ 18, 19), the claim extinguished includes all rights of the plaintiff to remedies against the defendant with respect to all or any part of the transaction, or series of connected transactions, out of which the action arose. (2) What factual grouping constitutes a

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CITATIONS FOR 6 ***Restatement Of The Law, Second, Judgments*** § 24 Dimensions of "Claim" for Purposes of Merger or Bar -- General Rule Concerning "Splitting" (2) What factual grouping constitutes a **"series"** , are to be determined **pragmatically** , giving weight to such considerations as whether the facts are related in time, space, **origin, or motivation,** whether they form a convenient trial unit, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage. § 26 Exceptions to the General Rule Concerning Splitting (1) When any of the following circumstances exists, the general rule of § 24 does not apply to extinguish the claim, and part or all of the claim subsists as a possible basis for a second action by the plaintiff against the defendant:

(b) **The court in the first action has expressly reserved the plaintiff's right to maintain the second action; or**

(d) The judgment in the first action was plainly inconsistent with the fair and equitable implementation of a statutory or constitutional scheme, or it is the sense of the scheme that the plaintiff should be permitted to split his claim; or (e) For reasons of substantive policy in a case involving a continuing or recurrent wrong, the plaintiff is given an option to sue once for the total harm, both past and prospective, or to sue from time to time for the damages incurred to the date of suit, and chooses the latter course; or (f) It is clearly and convincingly shown that the

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Restatement Of the Law Second, Judgments 24, Dimensions Of "Claim" For Purposes Of Merger Or Bar.
policies favoring preclusion of a second action are overcome for an extraordinary reason, such as the apparent invalidity of a continuing restraint or condition having a vital relation to personal liberty or the failure of the prior litigation to yield a coherent disposition of the controversy.
****

8) As there are material questions of fact in dispute which are not res judicata regarding whether appellant in pro per received a full and fair opportunity to litigate her small claim 98A01437 - appellant would like a jury to decide this which she requested in her First Amended Complaint. [ER -V2 -PAGE 1]

CITATIONS FOR ISSUE 8
8) LaLonde v County Of Riverside **204 F.3d 947; (9th Circuit 25th Feb 2000)** "the facts are disputed, and the disputed facts here should have been submitted to the jury, even when qualified immunity from suit was an issue. Issues of credibility belong to the trier of fact. The Seventh Amendment to the Constitution so requires. *Thompson v. Mahre,* 110 F.3d 716, 719 (9th Cir. 1997) makes this as clear as the proverbial bell."

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 **EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS-FRAP 28 (j) TO THE PANEL AND EN BANC COURT OF THE UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT.**-USCA 9th - CASE No 00-55596 & 00-55530

Bernhardt v Santa Monica College & County Of Los Angeles et al.

2. That Appellant's Constitutional Claims or State Tort Claims are not res judicata or collateral estoppel, and that the Small Claims Default Judgment of Oct 6th 1998, has no res judicata effect because California follows the "primary rights" theory, under which the right sought to be enforced determines the cause of action.[1] The invasion of more than one primary right gives rise to as many causes of action as rights violated, even though all may arise from a single set of facts, or may arise from more than a single set of facts.[2, 3]

---

[1] ***See 3 Witkin, California Procedure, Pleadings @ 22 (1971)***

[2] Note: **In the Small claim filed 2nd Sept 1998 [ER -V1-61 & 62], the primary right violated was "the right to be able to report a sexual assault complaint to a police officer in Nov 1996 at Santa Monica College and have that complaint taken down in writing and for that complaint to not be covered up and Santa Monica College Police Officer Ron Marable's defamation, and the College's negligence in that matter." Note: The discovery of the police cover up was March 17th 1998.** These were the only primary rights at issue in the Small Claim "proceeding" on Oct 6th 1998 with respect to Ron Marable, and Santa Monica College and Santa Monica

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 **PRIMARY RIGHTS THAT HAVE BEEN VIOLATED -EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS-FRAP 28 (j) TO THE PANEL AND EN BANC COURT OF THE UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT.**-USCA 9th - CASE No 00-55596 & 00-55530Bernhardt v Santa Monica College & County Of Los Angeles et al.

[2] Note: Continued. and Santa Monica College and Santa Monica Community College District did not appear, and the issues were not litigated fully or fairly because a precondition to suit was not met.

[3] **Note: <u>Here is a list of all the primary rights that have been violated in this Federal Civil Rights Claim</u>.**

1. The right to be free from Offensive Bodily Contact in a College class by appellee Larry Jones - July 1994.
2. The right to be free from harmful bodily contact and excessive force by appellees County Of Los Angeles Caucasian Sheriffs Does and appellee Santa Monica College Police Officer Ron Marable in appelleee Judge Laurence D Rubin's County Of Los Angeles Courtroom R on Oct 6th 1998.
3. The right to be free from apprehension of a harmful bodily contact by the first County Of Of Los Angeles Caucasian Sheriff Deputy Doe who approached appellant on Oct 6th 1998 in County Of Los Angeles Courtroom R, on the side of the long wide table near the public exit which table blocked litigants from the Judge's pedestal area.
4. The right to be free from false arrest, unlawful search, and unlawful detainment.
5. The right to be free from continuing discrimination by Instructor Larry Jones who had previously sexually assaulted appellant in his class, which discrimination forced her to leave the photography department.

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 **PRIMARY RIGHTS VIOLATED -EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS-FRAP 28 (j) TO THE PANEL AND EN BANC COURT OF THE UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT.-** USCA 9th - CASE No 00-55596 & 00-55530Bernhardt v Santa Monica College & County Of Los Angeles et al.

[3] **Note: Continued - <u>list of all the primary rights that have been violated in this Federal Civil Rights Claim</u>.**

6. The right to be free from intentional infliction of emotional distress and defamation of character caused by Larry Jones's defamation of appellant's character.
7. The right to education at Santa Monica College without having to endure a continuing hostile environment caused by the Instructor Larry Jones's initial sexual assault violation, his continuing discrimination, his intentional infliction of emotional distress, and his defamation of my character to police officer Marable.
8. The right to education at Santa Monica College without having to endure a continuing hostile environment caused by **Santa Monica College police refusing to take down my sexual assault complaint in writing because Ron Marable said my complaint was to old to report, and then later covering up my sexual assault complaint against Santa Monica College Instructor Larry Jones. Note. No 8 & 9, & 10 does encompass the issue "emotional injury due to police cover up" which was a cause of action in the Small Claim but the issue was not actually litigated to conclusion as a precondion to suit was not met, and a default judgment was entered.**
9. The right to not be defamed by Santa Monica College Police Officer Ron Marable.

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 **PRIMARY RIGHTS VIOLATED -EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS-FRAP 28 (j) TO THE PANEL AND EN BANC COURT OF THE UNITED STATES COURT OF APPEALS FOR 9TH CIRCUIT.**

10. The right to be able to report a sexual assault complaint to Santa Monica College and their police department without them covering it up, thus denying appellant equal protection of the laws.

11. The right to education at Santa Monica College without having to endure a continuing hostile environment through the College's framing appellant through the sexual assault investigation -which distorted facts and made use of the police cover up of appellants sexual assault complaint, and the college's pretext to ban appellant from the college without due process of law for no good reason - to discredit appellant in order to cover up the Instructors's sexual assault of appellant.

12. The right to not be framed and defamed by Santa Monica College, Santa Monica Community College District, Santa Monica College Police Department and their employees.

13. The right not to be framed by the college instructor who sexually assaulted me in his class in 1994, in order to conceal he committed an offensive battery, or to retaliate because appellant did not respond to his offensive battery.

14. The right to not have to endure a hostile environment through the college's refusal to investigate the police officer for police cover up of a sexual assault complaint.

15. The right to make a report against a student for harassment without being banned on a pretext 5 months later..

16. The right to not be retaliated against by Santa Monica College et al for reporting the Instructor's sexual assault complaint in Nov 1996.

FILED 20TH AUG 2002 -DATED 17TH AUG 2001
PRIMARY RIGHTS VIOLATED CONTINUED -
17. The right to make a complaint about a police officer at a California Community College and have their superiors conduct a proper and formal investigation.
18 The right to be free from intentional inflication of emotional distress caused by Robert Sammis threatening me with the Santa Monica college Police On Aug 27th 1998 in my meeting with Piedad Robertson.
19. The right to be free from being set up and framed by Santa Monica College et al.
20. The right to a full fair & safe hearing with due process of law on Oct 6th 1998.
21. The right of free access to the courts for violation of civil rights without obstructions.
22. The right to to be informed at the beginning of the Small claims hearing that the California government claim precondition to the lawsuit was not met - which would have prevented the abuse of process/excessive force.
23. The right to not be retaliated against through excessive force by County Of Los Angeles et al, and Santa Monica College and Ron Marable for exposing Marable's police cover up of a sexual assault complaint on Oct 6th 1998.
24. The right to be free of excessive force in a County Of Los Angeles Courtroom on October 6th 1998.
25. The right to not be subjected to an abuse of process in Los Angeles Municipal Court - Santa Monica courtroom
26.. The right to be free from defamation by Judge Laurence D Rubin and County Of Los Angeles et al which defamation regarding that appellant lunged at him - was first raised on appeal but not in district court.
25. The right to have a serious investigation by County Of Los Angeles Sheriff's department into Sheriffs who caused assault and battery/excessive force for no good reason.

FILED 20TH AUG 2002 -DATED 17TH AUG 2001
PRIMARY RIGHTS VIOLATED CONTINUED -
27. The right to not be harassed by Santa Monica College Police Officer Ron Marable.
28. The right to be free from defamation of character by County Of Los Angeles Sheriff Deputy Bailiff Terry January and County Of Los Angeles et al.
29. The right to be free from defamation of character by County Of Los Angeles et al and Ron Marable's denial that the Caucasian Sheriffs Deputy Does caused excessive force to appellant.
30. The right to be free from a conspiracy by the government entities.
31. The right to be free from intimidation , extortion and kidnap.

CITATIONS FOR 2

2. Los Angeles Branch NAACP v. Los Angeles Unified School District et al., 750 F.2d 731; (9th Circuit 1984)"
California follows the "primary rights" theory, under which the right sought to be enforced determines the cause of action. See 3 Witkin, California Procedure, Pleadings @ 22 (1971). The invasion of more than one primary right gives rise to as many causes of action as rights violated, even though all may arise from a single set of facts. See, e.g., *Sawyer v. First City Financial Corp.*, 124 Cal. App. 3d 390, 399, 177 Cal. Rptr. 398, 403 (1981)...***Agarwal v. Johnson,*** 25 Cal. 3d 932, 954, 160 Cal. Rptr. 141, 155, 603 P.2d 58, 72 (1979). **There plaintiff first brought suit in federal court for employment discrimination in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. @ 2000e. He subsequently was permitted to sue his employer in state court for the common law torts of defamation and intentional infliction of emotional distress arising out of the same discriminatory employment practice. The California Supreme Court held that the federal action**

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 **PRIMARY RIGHTS VIOLATED CONTINUED** - was brought to remedy the economic loss in wages, while the state action was brought to redress injuries to the different interests in reputation and peace of mind.**As ..Agarwal indicate[s], the single most important factor in determining whether a single course of conduct has violated more than one primary right is whether plaintiff suffered injury to more than one interest.** See also ***Ford Motor Co. v. Superior Court,*** 35 Cal. App. 3d 676, 679, 110 Cal. Rptr. 59, 61 (1973).***3.***
****

3. Santa Monica College appellees have not met the requisite identity of causes of action in the Small claim and in the Federal Claim to be able to raise res judicata as a defense [AND SMALL CLAIMS IN CALIFORNI A ARE NOT BARRED BY COLLATERAL ESTOPPEL ON A SUBSEQUENTDIFFERENT CAUSE OF ACTION]

3. Agarwal v Johnson Supreme Court Of California, 25 Cal. 3d 932; 603 P.2d 58; 1979 Cal. Rptr."Under one aspect of the doctrine of res judicata, "A valid final judgment on the merits in favor of a defendant serves as a complete bar to further litigation on the same cause of action." (*Slater v. Blackwood* (1975) [***39] 15 Cal.3d 791, 795 [126 Cal.Rptr. 225, 543 P.2d 593].) **Unless the <u>requisite identity of causes of action</u> is established, however, the first judgment will not operate as a bar.** ***Johnson, French, and McKee contend Agarwal's state and federal claims comprise but one cause of action because they arise from the same set of operative facts. We do not agree.*** **Under the "primary rights" theory adhered to in California it is true there**

APPENDIX H - APP 25

FILED 20TH AUG 2002 -DATED 17TH AUG 2001
EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS-FRAP 28 (j)
Agarwal v Johnson Supreme Court Of California, 25 Cal. 3d 932; 603 P.2d 58; 1979 Cal. Rptr.
"We do not agree. **Under the "primary rights" theory adhered to in California it is true thereis only a single cause of action for the invasion of one primary right.** (Ibid.) **But the significant factor is the harm suffered;** that the same facts are involved in both suits is not conclusive. *Langley v. Schumacker* (1956) 46 Cal.2d 601, 602-603 [297 P.2d 977].) **Title VII vests employees with independent federal statutory rights against discriminatory employment practices. It does not supplant state remedies."**
Restatements Judgments Second # 20 Judgment for Defendant - Exceptions to General Rule Of Bar
(2) A valid and final judgment for the defendant which rests...on the plaintiff's failure to satisfy a precondition to suit, does not bar another action by the plaintiff instituted after...the precondition has been satisfied, unless a second action is precluded by operation of the substantive law. -Comment K Rational For Subsection (2) A determination by the court that the plaintiff has no enforceable claim because ...she has failed to satisfy a precondition to suit, is not a determination that she may not have an enforceable claim therafter, and does not normally preclude her from maintaining an action when the claim has become enforceable. The rule stated in this subsection is applicable whether the fact ...that a precondition has not been satisfied appears on the face of the pleadings.
Definintion Of A Default Judgment - A judgment entered by a court after an entry of default against a party for failure to appear, to file a pleading, or **to take other required procedural steps (called also judgment by default)**

FILED 20TH AUG 2002 -DATED 17TH AUG 2001
EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS-FRAP 28 (j)
United States Court Of Appeals 9th Circuit.

[6] Note: In Restatement Of Judgments 2nd # 27 comment e) **Issues Not Actually Litigated If preclusive effect were given to issues not litigated, the result might serve to discourage compromise, ... and ... intensify litigation. In the case of a judgment entered by** confession, consent or **default, none of the issues are actually litigated. Therefore the rule of this Section # 27 does not apply with respect to any issue in a subsequent action.**

****

6. That res judicata does not apply if new conduct that included new parties caused new injuries after the first action was filed 2nd Sept 1998 which could not have been part of the first action as these new injuries did not exist and accrue until Oct 6th 1998.[7]

6. Eichman v Fotomat Corp 759 F.2d 1434; 1438(9th Circ 1985) "California courts follow the approach taken by the Supreme Court in *Lawlor v. National Screen Service Corp.*, 349 U.S. 322, at 328, 99 L. Ed. 1122, 75 S. Ct. 865 (1955), that a prior judgment "cannot be given the effect of extinguishing claims which did not even then exist and which could not possibly have been sued upon in the previous case."

****

7. Supports that appellant's claims against Santa Monica College et al are not res judicata, as appellant did not know that Santa Monica College Officials fabricated probable cause to arrest prior to Oct 6th 1998, as the perjury and arrest did not occur until Oct 6th 1998.

7. Spurlock v Satterfield, 167 F.3d 995; 1004 (6th Circuit 1999) "...What plaintiffs, in essence, allege here is the fabrication of probable cause, and contrary to Satterfield's argument, the fabrication of probable cause cannot be

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 - EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS FRAP 28 (j) United States Court Of Appeals 9th Circuit.

7. Spurlock v Satterfield, 167 F.3d 995; 1004 (6th Circuit 1999) **continued.** " immunized by later providing false testimony. **Obviously, the two alleged acts,manufacturing false evidence and later presenting that false evidence in the form of testimony, are inextricably linked.** Nonetheless, we find that adopting Satterfield's reasoning would lead to the **untenable result that officials who fabricate evidence or manufacture probable cause could later shield themselves from liability simply by presenting false testimony regarding that evidence. Plaintiffs do not allege that Satterfield and others merely presented false testimony. Indeed, they allege that something much more egregious was at work here. Specifically, that not only did Satterfield and other defendants know that Apple's testimony was false, but that they provided Apple with information regarding the Malone murder, and fabricated probable cause."**

****

8. That res judicata does not apply to the continuing violation theory sexual assault discrimination hostile environment and retaliation claim under Title IX. Under the continuing violation theory - a systemic and/or serial violation has its roots in discriminatory policy or practice, and as long as the discriminatory policy or practice itself, continues into the limitation period and is related to the prior discrimination, the challenger may be deemed to have filed a timely complaint which is also not res judicata when the new discriminatory acts could not possibly have been sued upon in the previous Small Claims action filed 2nd Sept 1998, as these new injuries did not exist until Oct 6th 1998 during the Small Claims

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 - EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS FRAP 28 (j) United States Court Of Appeals 9th Circuit.

8 Continued. proceeding and after.[8] Also the issues in the California Small Claim proceeding were never fully or fairly litigated in a safe environment with due process of law, and a default judgment was entered so res judicata and collateral estoppel actually don't apply .

***8. Morgan v. Amtrak*, 232 F.3d 1008; 1016,(9th Circuit 2000) Continuing Violation Theory- The continuing violations doctrine, however, allows courts to consider conduct that would ordinarily be time barred "as long as the untimely incidents represent an ongoing unlawful employment practice." Anderson v. Reno, 190 F.3d 930, 936 (9th Cir. 1999); see e.g., *Draper v. Coeur Rochester, Inc.*, 147 F.3d 1104, 1107 (9th Cir. 1998)....Fielder v. UAL Corp., 218 F.3d 973 (9th Cir. 2000),.**

***8. Fielder v UAL (9th Circuit 2000) 218 F.3d 973; 2000 U.S.*"A hostile work environment exists when a plaintiff shows; "(1) that he or she was subjected to sexual advances, requests for sexual favors, or [**26] other verbal or physical conduct of a sexual nature; (2) that this conduct was unwelcome; and (3) that the conduct was sufficiently severe or pervasive to alter the conditions of the victim's employment and create an abusive working environment." *Ellison v. Brady*, 924 F.2d 872, 875-876 (9th Cir. 1991). We examine elements of these claims from the perspective of a reasonable person of the victim's gender - here, from the perspective of the "reasonable woman." Id. at 883..."A 'hostile work environment' occurs when there is a pattern of ongoing and persistent harassment severe**

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 - EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS FRAP 28 (j) United States Court Of Appeals 9th Circuit.

8. Fielder v UAL 218 F.3d 973; (9th Circuit 2000)
continued. enough to alter the conditions of employment." Draper, 147 F.3d at 1108. Most instances of hostile environments are not capable of facile identification. "Instead, the day-to-day harassment [is] particularly significant, both as a legal and a practical matter, in its cumulative effect." Id. To satisfy the continuing violation theory, the plaintiff must show that a hostile environment exists and it continued into the period of limitations.
****

9. The Court had no jurisdiction to hear appellant's continuing violation claims under Title IX or Claims against the County Of Los Angeles appellees on Oct 6th 1998.

9. Eichman v Fotomat Corp 759 F.2d 1434; 1438(9th Circ 1985)"**Under California preclusion law, in order for res judicata to apply to claims not raised in previous proceedings, the court rendering the prior judgment must have had jurisdiction to hear such claims.** See *Teitelbaum Furs, Inc. v. Dominion Ins. Co.*, 58 Cal. 2d 601, 604, 375 P.2d 439, 440, 25 Cal. Rptr. 559, 560 (1962), cert. denied, 372 U.S. 966, 10 L. Ed. 2d 130, 83 S. Ct. 1091 (1963); ..".**We are remitted to the more general principle that prior jurisdictional competency is a requirement for the application of res judicata. This is a rule of near universal application. See Restatement (Second) of Judgments @ 26(1)(c).**
****

FILED 20TH AUG 2002 -DATED 17TH AUG 2001 - EXCERPT FROM APPELLANT'S CITATIONS OF SUPPLEMENTAL AUTHORITIES ON BRIEFS FRAP 28 (j) United States Court Of Appeals 9th Circuit.

10 - The question of fact - whether a hostile educational environment exists - is determined with reference to the totality of the circumstances, and whether institution had actual knowledge of the harassment and contributed further to it. Monteiro v The Temple Union High School District 158 F.3d 1022; (9th Circ 1998) **1. Hostile Environment - The Department of Education defines a "...hostile environment" as one in which ... harassment is "severe, pervasive or persistent so as to interfere with or limit the ability of an individual to participate in or benefit from the services, activities or privileges provided by the recipient." Id. at 11449. Whether a hostile educational environment exists is a question of fact, determined with reference to the totality of the circumstances, including the victim's [sex] race and age.Racial harassment creates a hostile environment if it is sufficiently severe that it would interfere with the educational program of a reasonable person of the same [sex] age and race as the victim. 59 Fed. Reg. 11449; see *Ellison v. Brady*, 924 F.2d 872 (9th Cir. 1991) (holding that "reasonable person" in sexual harassment case brought by female plaintiff is a reasonable woman). A hostile environment claim requires the victim to have been subjected to harassment severe enough to compromise the victims educational opportunities, and in the Case of a Title IX claim the institution must have had actual knowledge of the harassment and have exhibited deliberate indifference to it. Gebser, 118 S. Ct. at 1997-99.**

_____

Angela Bernhardt In Pro –Per
17th August 2001

FILED 15TH DEC 1999 - UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Verified Second Amended complaint For Violation Of Civil Rights (42 USC Section 1983) (DEMAND FOR JURY TRIAL)

Angela Bernhardt Plaintiff v County Of Los Angeles and Lloyd Pellman individually and in his official capacity.

USDCCDC - (CV-99-10121-(JSL) (Mc) [Note CV-99-10121-(JSL) (Mc) became 9th Circuit Appeal No. 00-55524 and was reversed and remanded in *Bernhardt v County Of Los Angeles et al* 279 F.3d 862 (9th Circuit published opinion 4th Feb 2002)]

Plaintiff alleges the following upon information and belief, excepting paragraph 5A ...which are alleged upon personal knowledge...PREAMBLE...

5A On Oct 6th 1998, a County Of Los Angeles Sheriff Deputy, aprox 35 years old, and approx 5ft 9in, with ash blond straight hair, fairly narrow eyes, a square jaw, and a highly distinctive and recognizable face, acting in uniform and on-duty, in Judge Laurence D Rubin's Santa Monica Courtroom R, took an attack posture in face and body, several feet away from Plaintiff before he kicked plaintiff tothe ground, and then after securing her hands- punched her with his fists for about two minutes around her ribcage. Seconds after Plaintiff had been kicked to the ground by this first County Of Los Angeles Sheriff, other Sheriff deputies joined him, and punched Plaintiff with their fists, dug their fingernails into Plaintiff's left hand, and wrenched her glasses off her face.

APPENDIX I- APP 32

FILED 15TH DEC 1999 - UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Verified Second Amended complaint For Violation Of Civil Rights (42 USC Section 1983) (DEMAND FOR JURY TRIAL) Angela Bernhardt Plaintiff v County Of Los Angeles et al,. CV-99-10121-JSL -(Mc)

5ACONTINUED - Seconds after Plaintiff had been kicked to the ground by this first County Of Los Angeles Sheriff, other Sheriff deputies joined him, and punched Plaintiff with their fists, dug their fingernails into Plaintiff's left hand, and wrenched her glasses off her face. One of the defendants for this County Of Los Angeles Court hearing, Santa Monica College Police Officer Ron Marable, who was the only defendant to appear at this hearing, who was in uniform and on duty, towards the end of the beating Plaintiff took, while she was restrained on the ground by the other County Of Los Angeles Sheriff's deputies, put his hand on plaintiff's back as she lay there, and remained in this pose for approximately thirty seconds, while the other County Of Los Angeles Sheriffs looked on. Each of the deputies and Ron Marable, although they had notice and present ability to do so, also failed to protect Plaintiff from use of excessive force by the others. The County Of Los Angeles Sheriff's deputies then unlawfully detained, arrested and imprisoned Plaintiff in Judge Laurence D Rubin's Courtroom's holding cell, and they further terrorized Plaintiff by informing her that they were about to take her downtown to County Of Los Angeles Jail.

APPENDIX I- APP 33

FILED 15TH DEC 1999 - UNITED STATES DISTRICT COURT FOR THE CENTRAL DISTRICT OF CALIFORNIA

Verified Second Amended complaint For Violation Of Civil Rights (42 USC Section 1983) (DEMAND FOR JURY TRIAL) Angela Bernhardt Plaintiff v County Of Los Angeles et al,. CV-99-10121-JSL -(Mc)

5B The foregoing use of force and failure to protect constitutes excessive force, under color of law, on Plaintiff without legal justification or excuse, all in violation of Plaintiff's federal constitutional right under the Fourth Amendment to be free from use of excessive force. The Foregoing detention, arrest and imprisonment of Plaintiff was under color of law and was in violation of Plaintiff's Federal Coñstitutional Right to be free from unreasonable seizure and arrest without a warrant or probable cause. All of the foregoing gave plaintiff causes of action against the County Of Los Angeles Sheriff's deputies and Santa Monica College Police Officer Ron Marable under 42 USC 1983 and 42 USC 1985 as well as County Of Los Angeles et al, and Santa Monica College et al.

Angela Bernhardt Plaintiff In Pro-Per - 13th Dec 1999

(6)

Supreme Court, U.S.
FILED
FEB 25 2002
CLERK

No. 01 1254

In the
Supreme Court of the United States

A BERNHARDT,
Petitioner,
v.

SANTA MONICA COLLEGE ET AL, &
COUNTY OF LOS ANGELES ET AL.
Respondents.

On Petition For A Writ Of Certiorari
To The United States Court Of Appeals
For The Ninth Circuit

ADDENDUM FOR
PETITION FOR A WRIT OF CERTIORARI

Angela Bernhardt
PO Box 480509
Los Angeles 90048
California.
Email – Angela_Bernhardt@yahoo.com
Tel (310) 281 3092

Petitioner – In Pro -Per

4 pp

14th February 2002

To The Clerk Of The Court & The United States Supreme Court

There is an error in Question Presented Number 2 and Page number errors in the Table Of Contents. Which are corrected in the following pages.

In addition there was a change of status on 4th February 2002 for a related 9th Circuit case 00-55524 regarding Bernhardt v County Of Los Angeles et al referred to in the question presented on **Page iv**, & on **Page 1** & in the argument on **Page 24,** of the first volume of the petition for writ of certiorari. The change of status is that the case was reversed and remanded.

Angela Bernhardt

Angela Bernhardt Petitioner 14th February 2002

CORRECTION

Page i

The Question Presented is:

2. Whether a federal court must consider pursuant to the full faith and credit statute 28 USCS §1738 the preclusion law of the state in which the prior judgment was rendered and whether the 9th Circuit's refusal to consider the principles of California's preclusion law by holding that a prior Small Claims judgment obtained by default, on a common law claim bars petitioner's state tort claims, and petitioner's subsequent Civil Rights claims, conflicts with the holding of this Court in *Migra vs Warren City School Dist. Bd. of Educ.*, U.S. 465 U.S. 75, 104 S.Ct. 892, 896 (1984), that "a federal court must give to a state-court judgment the same preclusive effect as would be given that judgment under the law of the State in which the judgment was rendered"?

CORRECTION TO THE PAGE NUMBER

Page No x

QUESTIONS PRESENTED----------Page No i---viii
PARTIES TO THE PROCEEDING ix ---------Page No 2-3
STATUTORY PROVISIONS---------- Page No 2-3
PROCEDURAL POSTURE ----------Page No 9-10

CORRECTION TO THE PAGE NUMBER

Page xi

The Small Claims Court is not entitled to
Judicial Immunity for acts taken in the
Clear absence of jurisdiction and for
non judicial Acts ----------Page 20-22

CORRECTION TO THE PAGE NUMBER

Page xi

There is no exception to 28 USC to 28 U.SCS §1738 for Federal Civil rights claims under 42 USC§ 1983, §1985 (2) & (3), and claims under the continuing violation theory for Title IX of the Education Amendments of 1972, 86 Stat. 373, as amended, 20 U.S.C. § 1681 et seq. (Title IX),

----------Page No 22 - 23

CORRECTIONS TO TABLE OF AUTHORITIES

Page xiv

Chang v Chen F.3d 1293, 1296 (9th Circ1996) is only on page 25.

Conley v Gibson 355 U.S. 41, 45-46, 2 L.Ed 2d 80, 78 S.Ct 99 (1957) is only on page 25.

Eldridge v. Block, 832 F.2d 1132, 1137 (9th Cir. 1987) is only on page 25

Faragher v City of Boca Raton, 524 U.S.775, at 787-89; 118 S. Ct. 2275; 141 L. Ed. 2d 662 (1998) (full version)

Haines v.Kerner, 404 U.S. 519, 521,(1972)page 25 only

Henderson v. Duncan, 779 F.2d 1421 (9th Cir. 86), is only on page, 27

Hishon v. King & Spalding, 467 U.S. 69, 73 (1984) is only on page 25

Meritor Savings Bank, FSB v Vinson et al, 477 U.S. 57;

106 S. Ct. 2399; 91 L. Ed. 2d 49; 1986 (full version)

Monroe v. Pape, 365 U.S. 167 is only on page 18

Pages Nos xxiv to xxvii in 1st Volume concern Volume II - Exhibits from original complaint & Record, & allegations first raised by respondents on appeal.